938.

SUPREME COURT OF THE UNITED STATES.

No. 72.

WILLIAM CLARK, APPL'T.

VERSUS

ANDREW SMITH.

APPEAL TO THE CIRCUIT COURT U. S. FOR KENTUCKY.

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PLEAS

Before the Honorable John Catron and Thomas B. Monroe, Judges of the Eighth Circuit Court of the United States of America, in and for the Kentucky District, held at the capitol, in the town of Frankfort, at the November term of said Court, in the year 1837.

Caption.

Be it remembered, that heretofore, to wit, on the 3d day of October, A. D. 1836, came William Clark, by his attorney, into the clerk's office of the court aforesaid, aad filed the following bill in chancery against Andrew Smith, to wit:

Bill.

" To the Honorable Judges of the United States of America in and for the 7th Circuit and District of Kentucky, in chancery sitting:

Your orator, William Clark, a citizen and resident of the State of Missouri, respectfully states, that by patent, dated the 13th of September, 1795, there is duly and regularly granted, by the Commonwealth of Kentucky, to George Rogers Clark, thirty-six thousand nine hundred and sixty-two acres of land, situate, lying, and being in the said Commonwealth of Kentucky, and now in the county of McCracken; that said George Rogers Clark, afterwards, to wit, on the day of , in the year of , in due and regular form, executed to Thruston a deed of mortgage, by which he conveyed to said Thruston the tract of land aforesaid, which had been granted to him by the Commonwealth of Kentucky, as aforesaid, for the purposes in said mortgage mentioned; a copy of said mortgage, together with a copy of the aforesaid patent, are exhibited, and made parts of this bill; that said George Rogers Clark, and said Thruston afterwards departed this life, leaving the mortgage aforesaid in full force, and unsatisfied; and the heirs and legal representatives of the latter filed their bill in the Jefferson circuit court, Kentucky, against the heirs and legal representatives of the former, to obtain a foreclosure of the equity of redemption in and to the land, and have the same sold to satisfy the demand, to secure which, the mortgage was executed; that such proceeedings was thereafter had in said court, as the Jefferson circuit, as to bring on the same for trial; and that a decree was finally rendered therein, foreclosing the equity of redemption in and to the land aforesaid, and directing the same to be sold, as will more fully appear from said decree; that said tract of land was afterwards, in conformity to the decree afs'd, sold, and a certain George Woolfolk became the pur-

chaser, at the price of , and that a deed was afterwards executed for the said land to the said Woolfolk, by Samuel Dickinson, who was appointed a commissioner for that purpose for the decree of the court aforesaid, which deed was afterwards approved by the court, and regularly record ; a copy of the proceedings and decree in said suit, together with the deed of the commissioner aforesaid, is exhibited and made part of this bill; that afterwards, to wit, on the day of , the said George Woolfolk and wife, by their deed, in due and regular form executed, proved, and recorded, sold and conveyed said tract of land to your orator; a copy of which bill is also exhibited and made part of this bill.

Your orator further states, that in virtue of the patent, deeds, proceedings, and decree aforesaid, he became, as he is advised, invested with the legal title of the land patented, as aforesaid, to George Rogers Clark; and being so entitled, he afterwards, by his agent, entered upon the land aforesaid, and took the possession thereof, and that at this time he has the possession in fact of said tract of land, and holds the same, by his tenant, Conmel, who actually resides thereon. But now, so it is, may it please your honors, a certain Andrew Smith, a citizen of Calloway county, in the State of Kentucky, well knowing that the land aforesaid of right belongs to your orator, as aforesaid, yet, fraudulently contriving and intending to embarrass your orator's title, has lately, as your orator is informed, under some pretended authority from the laws of Kentucky, asserts title to and claims the following parts of your orator's land aforesaid, to wit: section 19, in township 7, range 2, east; sections 2, 5, 4, township 7, range 1, east; sections 10, 11, 12, 13, township 7, range 1, east; sections 14, 23, 24, township 7, range 1, east; northeast quarter of section 20, township 7, range 2, west; southwest and northwest quarter section of section 33, township 7, and range 1, west.

Your orator states, that the asserted title and claim of the said Smith have no just or legal foundation; and he had hoped that the said Smith, who he makes defendant hereto, would have released and surrendered up to them all his pretended title and claim to the land aforesaid, and thereby quieted the possession and removed the embarrassments of your orator's title; but the said defendant refuses to do so, and gives out, in speeches, that his is the better title, and that he intends to continue his claim to the land; in tender consideration whereof, and for as much as your orator is remidiless in the premises by the strict rules of common law, and is only relievable in a court of equity, where possessions and titles to land are quieted, and pretended claims removed:

To the end, therefore, that the said defendant may, upon his corporal oath, true and perfect answer make to this bill, as fully as if the same was again repeated, by way of interrogatories; and that the defendant, Smith, may be compelled to exhibit all claim, or pretended claims, which he in any way has to the land aforesaid, or any part thereof, and that on a final hearing, your orators will, by the appropriate decree, compel the said defendant to release, surrender up, and

quit all claim which he may have to the land aforesaid, or any part thereof, and that your orator be quieted in his possession thereof, and that such other and further decree be made as may comport with equity, &c., may it please your honors to grant to your orator the United States of America spa., directed, &c. And your orator, as in duty bound, will pray, &c.

OWSLEY & CRITTENDEN,
for Compl't.

Upon which bill, the following chancery spa. was issued, to wit:

Subpœna Chancery.

[SEAL.] The United States of America to the Marshal of the Kentucky District, greeting:

You are hereby commanded to summon Andrew Smith, a citizen of Kentucky, to appear before the judges of our 7th circuit court of the United States of America, in and for the Kentucky district, at the capitol, in Frankfort, on the first Monday in November next, to answer a bill in chancery exhibited against him, in our said court, by William Clark, a citizen of the State of Missouri; and this he shall in no wise omit, under the penalty of four hundred dollars, and have then there this writ.

In testimony whereof, Joseph Story, Esq., Associate Justice of the Supreme Court of the United States of America, hath caused the seal of our said court to be hereunto affixed, this 3d day of October, A. D. 1835, and in the 60th year of our Independence.

Attest: JNO. A. HANNA, *C. C. C. K. D.*

Marshal's Return.

Executed on the within named Andrew Smith, October, 26th, 1835.

A. W. NAYLOR, *D. M.*,
For J. M. McCALLA, *M. K. D.*

Rule for hearing by Compl't.

And afterwards, to wit, at rules held in the clerk's office of the court afs'd, in the month of March, in year 1836, until which time this cause was continued on the rules, came the complainant aforesaid, by his counsel, and gave the def't a rule for hearing herein.

Set for hearing by Compl't.

And afterwards, to wit, at rules held as aforesaid, in the month of April and year last aforesaid, came the complainant aforesaid, by his counsel, and set this cause for hearing.

Leave to file Ans.

And afterwards, to wit, at the May term of the court aforesaid, and here last aforesaid, "came the def't by counsel, and on his motion leave is given him to file his answer, which is done accordingly."

Answer.

The answer of Andrew Smith, a citizen of Calloway county, and State of Kentucky, to a bill in chancery, filed against him, by William Clark, a citizen and resident of the State of Missouri, in the United States court, for the district of Kentucky. This respondent saving and reserving to himself the benefit of excepting to the many errors and misstatements, as contained and set forth in complainant's bill. In answer to the said bill, or such parts thereof as he is advised, is material for him to answer, says, that he denies as much of complainant's bill, as attempts to set forth a regularly deduced title, legally authenticated from the Commonwealth of Kentucky, down to himself, and he moreover denies that such title exists, and he calls on the the said complainant to bring into your honorable court, and file a true copy of all his said title papers from said Commonwealth, down to himself. This respondent also denies so much of said complainant's bill as states that he, the said compl't, by virtne of the said supposed title, as by him set up, ever had, or now has, a legal title to the land by him claimed in said bill, especially that part which said bill charges that this respondent has entered and claims; because your respondent alledges that said complainant's claim is not founded upon any law of the land, but on the contrary, is in violation of express and positive law. To prove which your respondent relies on an act of the General Assembly of Virginia, passed on the 13th day of March, 1657, by which the policy and justice of that State towards the Indian tribes was settled and regulated, and which made void all patents to land granted, contrary to the provisions thereof, and your respondent here charges that if said complainant derives his claim from any patent or grant, to George R. Clarke, for said land described in his said bill, that the said so claimed by him was at the time of said act, and at the time said claim had its origin within the boundary and limits of Indian lands, to wit, west of the Tennessee river, which had not been purchased by the Government from the said Indians, nor authorized to be taken up or located by individuals under said Government. This respondent will further state, that said claim, is also in violation of an act of the General Assembly of Virginia, of 1779, the 16th section of which in the enumeration of reservations therein mentioned, which should not be subject to treasury warrant, claims to be located thereon, especially reserves all Indian lands, which had been before that time *been* reserved for any particular nation or tribe of Indians; and your respondent alleges and charges that said reservation of said last mentioned act of 1779, included the lands in dispute, because they were then Indian lands, which had been reserved by the said act of 1657, in manner and form, and for the purposes aforesaid, and that the said reservation of

1779, is in confirmation of, and has direct reference to the said act of 1657. This respondent will further state, that the said pretended claim of complainant, is also in violation of the act of the Virginia Legislature, passed at the November session thereof, 1781, by which all that tract of land included within the rivers, Mississippi and Tennessee, and the Carolina boundary line, should be added to the military boundary of lands, for the benefit of the officers, soldiers, sailors, and marines, who served in the Virginia line, &c., and who served in the army of the Revolution, and which your respondent alleges and charges is the first appropriation and the only one that the laws of Virginia ever made of said tract of land, for the benefit of individuals during the time that Virginia had jurisdiction thereof, and before the separation of Kentucky from her, and your respondent charges that the lands claimed by said Clark, are included within said boundary, and said title is therefore illegal and void, because no other species of land claim was ever authorized by said State of Virginia, to be located in said tract of country, except said military rights; your respondent will further state and charge that said claim of complainant is pretended to be derived from the laws of Virginia, by virtue of an amended, made 26th of Oct., 1781, which was surveyed 7th of June, 1784, and patented to said G. R. Clark, by the State of Kentucky, on the 15th of September, 1795, and that from the said title papers themselves, it is evident that said lands in dispute are situated within the reservations aforesaid, and that therefore said claim is illegal and void; this respondent is aware that much reliance will be placed in the legislative act of Kentucky, of 1795, by which the register of Kentucky was authorized to receive and issue grants on certificates of survey, which were in the register's office of Virginia, at the time of the separation; but he contends that inasmuch as said claims would have been, and was illegal and void, under the laws of Virginia, because located contrary to law; that it never was the intention of the Kentucky Legislature to make such a class of claims valid under her own laws and against her own citizens, the more especially, as the compact between said States upon the subject of land titles only provides for claims derived from, and not in opposition to the laws of Virginia, and more particularly when it is considered that all the lands situated within Kentucky, which Virginia had not legally disposed of, did so soon as the separation took place, become the lands of Kentucky, to dispose of to her own citizens. This respondent further states, that he denies that the lines and corners of said complainant's survey and patent, as now exhibited and shewn upon the lands claimed by him in his said bill are genuine, or that they are those made originally by the proper officer. He moreover denies that the same are in conformity with the complainant's patent, because the beginning corner, as shewn, is at least one mile and a half up the Tennessee river above its mouth, whereas the patent calls to begin on the bank of the Ohio, at certain trees. This respondent also denies that all the lands, as mentioned in the complainant's bill, are within his said patent boundary, that is to say, section 19, township 7, and range 2 east; also sections twenty-five and twenty-four, and the northeast

and northwest quarter of section 13, township 7, and range 1 east, as mentioned in complainant's bill, which this resondent denies are within said patent boundary; as to all the rest of the land mentioned in complainants bill, he admits that they are within said patent boundary; and to the end that it may appear to your honorable court what lands are and what are not within said boundary, your respondent prays that an order of survey may be directed, &c. This respondent denies all fraud whatever, as charged against him in complainant's bill, and calls for full proof. This respondent will further state, that said complainant has not listed said lands so claimed by him as aforesaid, agreeable to law, nor has he regularly paid taxes on the same, from and after the year 1825, up to the present time, according to an act of the Legislature of this State, passed the 12th day of January, 1825, and he here calls on complainant for full proof thereof, and upon his failure to do so, he prays that said complainant's bill be dismissed. This respondent having now answered so much of complainant's bill, as relates to his said claim to the lands mentioned in his said bill, as well as stated the legal objections which he urges against the whole of said complainant's claim, your respondent will now, according to the prayer of said complainant, proceed to set out and exhibit his own title. This respondent will state that it is true, he claims under the laws of the State of Kentucky, and more especially such as have heretofore been made, respecting the title of lands in contest lie, that in pursuance of said laws, by which the said land were publicly offered for market, and bought of the State by him; he now claims them, and that on the day of , 1835, he obtained patents from said State for them, copies of which, in due time, will be filed in this cause, which, when so filed, are here prayed to be taken as a part of this answer, that he has paid his money for said lands bona fide, and now trusts the validity of his claim will be found superior, both in law and equity, to the said pretended and void claim of complainant. This respondent prays, that so much of his said, as sets up objections to the complainant's claim to said lands, may be made and taken as a cross bill against said compiainant, and that he do answer the same, and upon a final hearing, he prays that complainant's bill be dismissed, and if not inconsistent with the rules and regulations of your honorable court, he prays that said Clark may be decreed to release his said pretended claim to this respondent, and he prays for general relief, and in duty, &c.

ANDREW SMITH.

Justices Certificate.

KENTUCKY—*Calloway County, Sct.*

This day personally came before me, the undersigned, a justice of the peace for said county, Andrew Smith, the respondent in the foregoing answer named, and made oath, the matters and things in said answer are true, so far as stated from his own knowledge, and so far

as stated from the information of others he believes to be true. Given under my hand and seal this 20th day of April, 1836.

J. W. FRAZER, *J. P. C. C.* [SEAL.]

Order Survey.

And on a subsequent day of the term and year last aforesaid, "on motion of the complainant, this cause is remanded to the rules."

And afterwards to wit, at rules held in the clerk's office of the court aforesaid, in the month of August, and year last aforesaid, (until which time this cause was continued,) came the complainant by his counsel, and on motion, it is ruled that the surveyor of county do go on the land in controversy between, the parties on the day of next, if fair, if not, then on the next fair day, and then and there lay off and survey the same as either party may direct, having due regard to all deeds and other evidence that may be produced, report all matters of fact specially, and return one fair plat and certificate thereof into the clerk's office of this court, thirty days at least before the day of trial, and the Marshal or one of his deputies is directed to attend the said survey, to remove force should any be offered.

Replication to Answer, &c.

And afterwards, to wit, at rules held as aforesaid in the month of December, and year last aforesaid, (until which time this cause was continued on the rules,) came the complainant by his counsel, and for replication to the answer of the defendant filed herein, says that the statements therein contained, so far as they contradicted the allegations of his said bill are untrue, and that the allegations of his said bill are true, and depositions are awarded either party to take depositions generally.

Leave to amend bill, &c.

And afterwards, to wit, at the November term of the court aforesaid, in the year 1837, (until which time the cause was continued,) came the parties aforesaid by their counsel, and on motion of the complts, leave is given them to amend their bill, which is done and filed; and by consent the defendants have leave to file their answers thereto, without affidavit thereto.

The following is a copy of the amended bill above referred to, to wit:

Amended Bill.

"William Clark, a resident and citizen of the State of Missouri makes this his amendment to an original bill filed by him in the circuit court of the United States, in and for the District of Kentucky, against Andrew Smith, that in the original bill the derivation of your orator's title has not been in all respects correctly stated, though your orator charges he is vested with the legal title to the tract of land

mentioned in the bill as having been patented to Genl. George R. Clark, that the land was, as suggested in the original bill, mortgaged by the said George R. Clark to Thurston, but that the same was previously conveyed by the patentee to your orator, that claiming to subject the land to a debt, or debts, due, and owing by the said George R. Clark to the said Thurston, the executor of the latter filed a bill against your orator, and the heirs and representatives of the former in the Jefferson circuit; and in that suit *suit* such proceedings were had as by the decree of said court the right, title, interest, and claim of the heirs of said G. R. Clark was sold, and George Woolfolk became the purchaser, to whom, after the sale was approved by the court, a conveyance was made by a commissioner acting under the order of the court, which deed of conveyance was afterwards executed by the commissioner in court, acknowledged by him, and approved by the court, and recorded, which deed is made a part of this amendment, together with a certified copy of the transcript of the record and proceedings in said court; that said Woolfolk afterwards conveyed the land, by regular deed, to your orator, which deed is also referred to, and made part of this bill. Your orator would, therefore, correct the statements in the original bill, so far as the same varies from the statements herein made, and the records, proceedings, and deeds now exhibited, all of which presents the correct history of the derivation of title from the patentee to your orator; wherefore your orator prays that the defendant, Smith, may be compelled to answer the allegations of this and the original bill, and that such decree be finally made as may comport with the equity and justice of the case.

WILLIAM CLARK.
By CRITENDEN & OWSLEY, *his Atto's.*

And afterwards, to wit, at the November term of the court aforesaid, and year last aforesaid, (until which time this cause was continued.)

Cause placed on issue doc.

"By consent of parties this cause is placed on the issue docket for trial."

Henry Pirtle, Esq., introduced as a Witness.

And afterwards, to wit, on a subsequent day of the term, and year last aforesaid, "Came the complainant's counsel and introduced Henry Pirtle, Esq., as a witness, who proved that he knew the hand writing of Samuel Dickinson, that he had often seen him write, and that the deed with the signatures from him as commissioner on behalf of Clark's Sx's to George Woolfolk was in the hand writing of said Samuel Dickinson. The defendant's counsel having waiving the necessity of a rule before the introduction of the witness. Whereupon the def't, by consent, and with leave of the court filed his answer, to which the complainant filed a replication."

Which answer and replication are as follows, to wit:

An's to Am'd Bill.

"The answer of Andrew Smith to an amendment made to the original bill, filed in this cause by William Clark, a citizen of the State of Missouri, against the said Smith, and by consent of parties and order of court in this suit, made O. G. Cates the attorney and counsel of Smith now here, answers the said amendment, and saith that the said Smith, defendant, knows nothing of the *claim* of *title* to the land in controversy having been vested in said compl't, as set forth in the original and amended bill, and therefore calls for full proof, and an exhibition of said title papers, and the said Smith, by his attorney, O. G. Cates, answereth and saith, he ought not to release and relinquish his right and title to the land in contest, because he chargeth that the entry and survey upon which the patent or grant from the State of Kentucky to the said George R. Clark was null and void, as will more fully and appear by attested copies of said entry and survey, herewith filed and exhibited as part of this answer, marked (A.B.&C.) and prayed to be taken as part hereof, and the said Smith further charges and avers, that there is no allegation in the original and amended bill that would authorize a court of equity, or this court to take any further cognizance or jurisdiction of the said original and amended bill, and having fully answered, prays that the same be dismissed, and that he, said Smith, recover his costs, &c.

ANDREW SMITH.
By O. G. CATES, *his attorney.*

Replication to Answer.

The replication of William Clark to an answer of Andrew Smith, filed by O. G. Cates, his attorney, to an amended bill heretofore exhibited by this repliant. This repliant admits that the entries exhibited in said answer were made as they import to have been made, and that the survey, the certificate of which is also exhibited in said answer was also made as it purports to have been made, and upon which survey, founded on the entry aforesaid, the grant referred to in the bills of this repliant regularly, and in due form of law issued. This repliant would further state, that the said plat and certificate of survey had been returned, and were in the Register's office of the State of Virginia, at the time of the separation of the State of Kentucky from Virginia, and that the grant issued thereafter in due and legal form, in pursuance of the laws of Kentucky, made after *after* the separation, he refers to, and makes part of this replication, the plat and certificate of survey, marked W, and the certificate of the Register thereon, dated 7th November, 1837. This repliant not admitting thing contained in the answer inconsistent with the allegations of his original bill, as explained and corrected in his amended bill, alleges that the allegations of his bills, as therein set forth and explained, are true; that he has good title to the land in contest, and

that the defendant should be compelled to surrender his pretended claim, &c.; wherefore this repliant prays, as in his original and amended bill, &c.

CRITTENDEN OWSLEY.
PIRTLE & MOREHEAD & BROWN,
For Complainants.

And afterwards, to wit, on a subsequent day of the term and year last aforesaid.

"This cause came on to be heard upon the bill, answer, exhibits, and depositions, but there not being time to go through with the same, further argument is postponed until Monday."

And afterwards, to wit, on a subsequent day of the term and year last aforesaid.

"This day this cause was again heard in part, but there not being time to conclude the argument, it is laid over until to-morrow."

And on the following day of the term and year last aforesaid.

"The arguments in this cause was this day finally heard, but the court not being advised, took time, &c."

And afterwards, to wit, on a subsequent day of the term and year last aforesaid.

Decree.

The court being now sufficiently advised of and concerning the premises, it is the unanimous opinion of the court that the complainant has established that he has the legal title *title* to the land in his bill mentioned, under a valid grant by patent, from the Commonwealth of Kentucky, and was in the actual possession thereof at the commencement of this suit, and that the deft. has not shewn that he has any right or title, in either law or equity, to said land, or any part thereof: but the judges being divided in opinion on the question of jurisdiction, it is not the opinion of the court, that on the grounds of the deft's. pretention of title, as alleged by complainants, and in consequence of the statute of Kentucky conferring on its courts jurisdiction in such cases. This court has jurisdiction to compel the defendant to release his claim to complt.; nor is it the opinion of the court that, on the ground of the defendant having set up title in his answer, and therein exhibited the junior patents for the land, from the Commonwealth to himself, or any other ground apparent in the cause, this court has jurisdiction, on the general principles which determined the equity jurisdiction of the courts of the United States to grant the complainant this or any other relief. It is therefore ordered, that the complainant's bill be, and the same is hereby, dismissed, for the want of jurisdiction, and without prejudice to the rights or claims of either party. Each party must bear his own costs.

Samuel Dickinson, dec'd. to G. Woolfolk.

The following are the exhibits filed in this cause, to wit:

"This indenture, made this 14th day of June, 1827, between William Clark and William Crowan, and Lucy, his wife, Owen Gwathmey, John Gwathmey, Samuel Gwathmey, John C. Gwathmey, Temple Gwathmey, Isaac R. Gwathmey, George Woolfolk, and Catharine, his wife, Richard C. Anderson, jr., and Betsey, his wife, Thomas Buttill, and Dianna, his wife, Peter Priest, and his wife, Francis Jones, William H. Booth, Dennis Fitzhugh, and Francis, his wife, John Logan, and Ann, his wife, Cecilia Anderson, John H. Clark, Isaac Clark, William Clark, George W. Clark, Benjamin Temple, and Eleanor, his wife, and James A. Pearce, and Ann, his wife, by Samuel Dickinson, a commissioner of the first part, and George Woolfolk, of the second part.

Whereas, at the October term of the Jefferson circuit court in the year 1824, the said court made the following decree in the case in which Edmund H. Taylor, as ex'cr of John Thruston, dec'd, is complainant, and the parties of the first part to these presents, defendants, to wit:

This day came the parties by their counsel, and the court being now sufficiently advised of and concerning the premises, are of opinion that the heirs of George Rogers Clark have no title to the mortgaged premises in complainant's bill mentioned, and that the conveyance set up by the defendants, William Clark, to the two tracts of land in said bill mentioned, one of thirty-seven thousand acres, and the other of thirty-six thousand nine hundred and sixty-two acres, both lying on the Ohio river, and patented to George Rogers Clark in his lifetime, by patents bearing date the 15th Sep'r, 1795, is fraudulent, as to the creditors of said George Rogers Clark, and, at most, can only operate as a mortgage, to secure to said William Clark the payment of twenty-one hundred dollars, the consideration expressed in said conveyance, with interest thereon at six per centum per annum from the 28th day of July, 1803, until payment; and that the said George Rogers Clark, in his lifetime, had an equity of redemption in said premises, and that the same has descended upon, and is now assets in the hands of said heirs for the payment of the debts of said George Rogers Clark. It is therefore decreed and ordered that said lands, or so much of both or either of said tracts, be sold at public auction, at Louisville, to the highest bidder, upon a credit of two years, the purchaser giving bond, with good security, for the purchase money, with interest, as will be sufficient to satisfy and pay the complainant the sum of five hundred and thirty-five pounds three shillings and five pence, with interest thereon at six per centum per annum from the last day of May, in the year 1804, until payment, being the debt in the complainant's bill and mortgage mentioned, and also the costs of the complainant in this suit, the sale to be made subject to the mortgage or lien of said William Clark upon said lands, for the payment of $2,100 aforesaid, with interest thereon as aforesaid, to him.

And it is further ordered and decreed, that Samuel Dickinson be appointed a commissioner, and unless the said sum of £534 3 5, with interest thereon as aforesaid, and the costs aforesaid, be paid to the complainant on or before the first day of January next, the said commissioner make sale, as above directed, of the land aforesaid, on such day and place in Louisville as he shall appoint, first advertising the time and place of sale by the space of sixty days, in some newspaper printed in Louisville aforesaid, and also at the court-house doors in said town; and that he make report of his proceedings herein to the next court, from which decree the said defts. pray an appeal to the honorable the court of appeals of this State, which is granted them upon their entering into bond with Charles W. Thruston, their security, in the clerk's office of this court, within thirty days, in the penalty of five thousand dollars, conditioned that the said defendants shall prosecute the said appeal with effect, and that on failure thereof, that they shall pay to the said complt. the amount of the aforesaid decree, and also all damages and costs which shall or may be awarded against the defts. by the said court of appeals in this cause.

At the March term, 1826, of the same court, the following decree was made:

"This day came the parties by their counsel, and on the motion of the said defendants, and by and with the consent of the said complainant, the said defts. *wave* the appeal prayed in this cause by them; and leave is given the said complainant to proceed on the decree rendered in this cause, according to the provisions thereof, which is ordered accordingly."

And the parties of the first part failing to comply as ordered and decreed, the commissioner therein named, to make sale of the lands mentioned in the bill, as well as the mortgage, advertised the same in pursuance of the foregoing decree, and sold the whole of said lands in pursurnce of said decree, and according to law, as will more fully appear by the report of said sale made to the court, and the said court, on the reception of the report aforesaid, made and recorded the following decree at June term, 1827, to wit:

"It appearing to the satisfaction of the court that George Woolfolk was the purchaser of the lands decreed to be sold herein, and that such appears to be the fact by the commis'rs report, and by an order in this cause, made at the October term, 1826, of this court, William Clark was stated to have been the purchaser of said lands, which was not the case; the court now corrects said order at October term, 1826, and confirms hereby the commissioner's report, returned herein at a former term of this court, and the court now decrees and orders that the defendants do, on or before the ninth day of the present term of this court, convey by deeds in fee simple, conveying their title only to said Woolfolk, and the said lands sold and purchased by him, that on failure thereof Samuel Dickinson be, and he is hereby, appointed a commissioner to do it for them." And the defendants failing to convey as ordered.

Now, therefore, this indenture witnesseth that for and in consideration of the premises, the parties of the first part by the commissioner aforesaid hath granted, bargained and sold, aliened, released, enfeoffed, conveyed and confirmed, and by these presents doth grant, bargain and sell, alien, release, enfeoff, convey and confirm to the party of of the second part the following tract or parcel of land lying on the Ohio river, includedin the following bounds, viz: "Beginning at two maples, three ashes, and a hackberry on the bank of the Ohio, at the mouth of Tennessee river, running from thence S. 16° W. 12,80 poles crossing a creek to two white oaks and three maples standing on the bank of the creek that empties into the Ohio at the lower end of the island at the mouth of Tennessee, thence N. 74° W. 55,78 poles, crossing a fork of Masac creek at 1,830 poles, another at 2,340 poles, and another at 3,396 poles, passing a corner, five black oak saplins in the head of a hollow at 3,840 poles, to a white oak and a hickory, by a small drain corner to George Smith; running from thence with his line N. 58° W. 2,166 poles, to two maples and a cotton wood tree standing on the Ohio river at the lower side of a small creek, and the fifth below Masac, running from thence up the Ohio, binding thereon 8,640 poles, to the beginning." To have and to hold the same with all, and singular, the appurtenances thereto belonging to them and their heirs forever, the parties of the first part hereby conveys their right, title, interest and estate, in and to the foregoing land, binding themselves and their heirs, &c., to defend the same from the claim or claims of all and every person claiming or to claim the same, by, through, or from them or either of them, and no other person or persons whatsoever. In testimony whereof, the parties of the first part by Samuel Dickinson the commissioner for this purpose, have hereunto set their hands and seals on the day and year first above written.

WILLIAM CLARK, [SEAL.]
By Samuel Dickinson, Commissioner.

WILLIAM GROGHAN, [SEAL.]
By Samuel Dickinson, Commissioner.

LUCY CROWAN, [SEAL.]
By Samuel Dickinson, Commissioner.

OWEN GWATHMEY, [SEAL.]
By Samuel Dickinson, Commissioner.

JOHN GWATHMEY, [SEAL.]
By Samuel Dickinson, Commissioner.

SAMUEL GWATHMEY, [SEAL.]
By Samuel Dickinson, Commissioner.

GEORGE C. GWATHMEY, [SEAL.]
By Samuel Dickinson, Commissioner.

TEMPLE GWATHMEY, [SEAL.]
By Samuel Dickinson, Commissioner.

ISAAC R. GWATHMEY, [SEAL.]
By Samuel Dickinson, Commissioner.

GEORGE WOOLFOLK, [SEAL.]
By Samuel Dickinson, Commissioner.

CATHARINE WOOLFOLK, [SEAL.]
By Samuel Dickinson, Commissioner.

RICHARD C. ANDERSON, Jr. [SEAL.]
By Samuel Dickinson, Commissioner.

BETSEY ANDERSON, [SEAL.]
By Samuel Dickinson, Commissioner.

THOMAS BULLITE, [SEAL.]
By Samuel Dickinson, Commissioner.

DIANNA M. BULLITE, [SEAL.]
By Samuel Dickinson, Commissioner.

PETER PRIEST, [SEAL.]
By Samuel Dickinson, Commissioner.

LUCY PRIEST, [SEAL.]
By Samuel Dickinson, Commissioner.

FRANCIS JONES, [SEAL.]
By Samuel Dickinson, Commissioner.

WILLIAM H. BOOTH, [SEAL.]
By Samuel Dickinson, Commissioner.

DENNIS FITZHUGH, [SEAL.]
By Samuel Dickinson, Commissioner.

FRANCIS FITZHUGH, [SEAL.]
By Samuel Dickinson, Commissioner.

JOHN LOGAN, [SEAL.]
By Samuel Dickinson, Commissioner.

ANN LOGAN, [SEAL.]
By Samuel Dickinson, Commissioner.

CECELIA ANDERSON, [SEAL.]
By Samuel Dickinson, Commissioner.

JOHN H. CLARK, [SEAL.]
By Samuel Dickinson, Commissioner.

ISAAC CLARK, [SEAL.
By Samuel Dickinson, Commissioner.

WILLIAM CLARK, [SEAL.]
By Samuel Dickinson, Commissioner.

GEORGE W. CLARK, [SEAL.]
By Samuel Dickinson, Commissioner.

BENJAMIN TEMPLE, [SEAL.]
By Samuel Dickinson, Commissioner.

ELEANOR TEMPLE, [SEAL.]
By Samuel Dickinson, Commissioner.

JAMES A. PEARCE, [SEAL.]
By Samuel Dickinson, Commissioner.

ANN PEARCE, [SEAL.]
By Samuel Dickinson, Commissioner.

STATE OF KENTUCKY:

At a circuit court continued and held for the Jefferson circuit, in the State aforesaid, at the court-house in Louisville, on the 16th day of June, 1827, the within deed was produced in court, and being examined and approved of by the court, and acknowledged by Samuel Dickinson the commissioner appointed for that purpose, to be the act and deed of the parties of the first part, was ordered to be recorded by the clerk of our said court, in his office, which is done accordingly.

Test: WARDEN POPE.

KENTUCKY, *McCracken County, sct:*

I, Braxton Small, clerk of the county court for the county aforesaid, do hereby certify, that this deed from William Clark and others, by Samuel Dickinson, comm'r, to George Woolfolk, was, on the 22d day of July last past, produced to me, in my office, and ordered to be recorded. In testimony whereof, and that the same, together with the certificate of the clerk of the Jefferson circuit court thereon, and this certificate, stand duly recorded in my office, I have hereto set my hand, this 4th day of August, 1830.

B. SMALL.

WOOLFOLK & WIFE, *to* WM. CLARK. } Deed.

This indenture, made this 13th October, in the year 1827, between George Woolfolk and Catharine his wife, of Shelbyville, Kentucky, of the one part, and Wm. Clark, of city of St. Louis, State of Missouri, of the other part, witnesseth, that for and in consideration of the sum of five dollars, in hand to the said Woolfolk by the said William Clark, the receipt whereof the said Woolfolk doth hereby acknowledge, the said Woolfolk hath this day bargained and sold, and by these presents doth bargain and sell, alien and convey, unto the said Clark, his heirs, &c. forever, the following tract of land in the county of McCracken, and State of Kentucky, beginning at three maples, two ashes and a hackberry, on the bank of the Ohio, at the mouth of the Tennessee river, running from thence S. 16° W. 1,280 poles, crossing a creek, to two white oaks and three maples, standing on the bank of a creek that empties into the Ohio, at the lower end of the island at the mouth of Tennessee, thence N. 74° W. 5,598 poles, crossing a fork of Massac creek, at 1,830 poles, another at 2,340 poles, a branch at 300 poles, and another at 3,396 poles, passing a corner five black oak saplins in the head of a hollow, at 3,840 poles, to a white oak and hickory by a small drain corner, to George Smith, running from thence with his line N. 58° W. 2,166 poles, to two maples and a cotton wood tree, standing on the Ohio river, at the lower side of a small creek, and the fifth below Massac, running from thence up the river, binding thereon 8,640 poles to the beginning, to have and to hold the said land within the above described boundaries, unto the said Clark, his heirs, &c., forever; and the said George and Catharine, for themselves, their heirs, &c., against the claim of all persons claiming through or under them, the said George and Catharine, their heirs, &c. In testimony whereof they set their hand and seal, the date above written.

GEO. WOOLFOLK. [SEAL.]
CATH. WOOLFOLK. [SEAL.]

I, Worden Pope, clerk of the county court of Jefferson county, in the State of Kentucky, do certify, that on this day, the foregoing deed was produced to me, in my office, and acknowledged and delivered by Geo. Woolfolk and Catharine Woolfolk his wife, to be their act and deed; that I examined the said Catharine privily and apart from her said husband, and having shewn and explained the said deed to her, she declared that she had signed the same as and for her act and deed, of her own free will and consent, without the threats, persuasions or compulsions of her said husband, and that she was willing that the said deed should be recorded, and did not wish to retract her said acknowledgments; and that I have recorded the said deed in my said office. Witness my hand, this 13th day of October, 1827.

WORDEN POPE.

STATE OF KENTUCKY, *McCracken County, sct:*

I, Braxton Small, clerk of the county court for the county aforesaid, do hereby certify, that this deed from George Woolfolk, and Catharine, his wife, to William Clark, was on the 22d day of July last produced to me, in my office, and ordered to be recorded. In testimony whereof, and that the same, together with the certificate of acknowledgment and relinquishment of dower thereon, and this certificate, stand truly recorded in my office, I have hereunto set my hand, this 4th day of August, 1820.

B. SMALL.

G. R. CLARK, *to* WM. CLARK. } Deed.

This indenture, made this 28th day of July, 1803, between George Rogers Clark, of the county of Jefferson, and the Commonwealth of Kentucky, of the one part, and William Clark, of the said county and State, of the other part, witnesseth, that the said George Rogers, for and in consideration of the sum of twenty-one hundred dollars, (sundry services by the said William,) to him in hand paid by the said William, the receipt whereof he doth hereby acknowledge, he, the said George Rogers hath granted, bargained and sold, and by these presents doth hereby grant, bargain, sell, alien and confirm unto the said William, his heirs and assigns, forever, two certain tracts or parcels of land, containing 73,960, more or less, situate, lying, and being in the county of Livingston, on the Ohio, below the Tennessee river, and bounded as follows, to wit, beginning at three maples, two ashes, and a hackberry, on the bank of the Ohio, at the mouth of the Tennessee river, running from thence S. 16° W. 1,280 poles, crossing a creek, to two white oaks and three maples, standing on the bank of the creek that empties into the Ohio, at the lower end of the Island at the mouth of the Tennessee, thence N. 24° W. 5,598 poles, crossing a fork of Massac creek 1,830 poles, another at 2,340 poles, a branch at 3,000 poles, and another at 3,396 poles, to a white and hickory by a small drain corner, to George Smith, running from thence with his line N. 58° W. 2,166 poles, to two maples and a cotton wood tree standing on the Ohio, at the lower side of a small creek, and the fifth below Massac, running from thence up the Ohio, binding thereon 8,640 poles, to the beginning; to have and to hold the said tract or parcel of land unto the said William Clark, his and assigns, to his and their only proper use and behoof; and the said George Rogers Clark, for himself and his heirs, the said two tracts or parcels of land, unto the said William Clark, his heirs and assigns, shall and will warrant, and forever defend against the claims of him and his heirs, and all other person or persons claiming by, from, or under him or them, except that part deeded to Levi Hollingsworth and Harry Innis, &c.; and the said George Rogers Clark, for himself and his heirs, doth covenant to and with the said

William Clark, his heirs and assigns, that in case any part or parts of the said tract of land shall be lost by other , that then he, the said George Rogers Clark, will refund so much of the purchase money as will be in the same proportion given for any part that may be lost.

In witness whereof, the said George Clark hath hereunto set his hand and seal the day and year before written.

Witness: G. R. CLARK, [SEAL.]

Signed, sealed, and delivered in presence of
ROB'T K. MOORE,
CHA'S ANDERSON,
ISAAC ROBERTSON,
WORDEN POPE,
COLBY TAYLOR,
ANTH'Y REYNOLDS,
W. AKIN,
GEO. POPE,
GEO. WILSON,
EDW'D DENNY.

Clerk's Cert.

STATE OF KENTUCKY, *sct:*

I, Achilles Sneed, clerk of the court of appeals for the State aforesaid, being duly authorized by law to receive, admit, and record deeds and other writings in my office, do hereby certify that the foregoing deed was produced to me, in my office, in Frankfort, on the 12th day of November, 1803, and proved by the oath of Worden Pope, and on the seventeenth day of the same month, was further proved by the oath of George Wilson, and on the 28th day of the same month aforesaid, was further and fully proved by the oath of William Akin, being three of the subscribing witnesses thereto, to be the act and deed of George Rogers Clark, the grantors therein named, and the same is truly recorded.

In witness whereof, I have hereunto subscribed my name, the day and year last aforesaid

ACHILLES SNEED, *C. C. A.*

A copy.

Attest: J. SIVIGERT, *C. C. A.*

[See original, page 30.]

Surveyed for George Rogers Clark 36,962 acres of land, by virtue of 14 Treasury warrants, No. 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, and 1226, ass'ee of Nath'l Randolph, lying in Lincoln county, and on the Ohio. Beginning at A, three maples, two ashes, and a hackberry, on the bank of the Ohio, at the mouth of the Tennessee river, running from thence S. 16°, west 1,280 poles, crossing a creek to B, two white oaks, and 3 maples, standing on the bank of the creek that empties in the Ohio at the lower end of the Island at the mouth of the Tennessee, thence north 74, west 3,840 poles, crossing a fork of Massac creek, at 1,830 poles, another at 2,340 poles, a branch at 3,000 poles, and another at 3,396 poles to five black oak saplings in the edge of a hollow running north near the top of a high ridge, thence N. 16°, east 1,800 poles, crossing a branch of 4-mile creek and a pond, to D, a black walnut, elm, and hoopwood, on the bank of the Ohio, about 3 miles below Fort Massac, thence running up the Ohio with its several meanders, 4,480 poles to the beginning.

G. CLAY, *Ass't.*
JAMES THOMPSON, *S. L. C.*

A copy.
Attest: JNO. M. FOSTER, *R. L. O.*
By E. A. MACURDY, *D. K.*
June 7th, 1784.

The original, of which the within is a copy, was filed in the Land Office of the State of Virginia, on the 4th day of June, 1785, as appears from the records in the Land Office. Given under my hand this 7th day of November, 1837.

Attest: JNO. M. FOSTER, *R. L. O.*
By E. A. MACURDY, *D. K.*
May 17th, 1780.

Entry of 71,962 *acres.*

George Rogers Clark, assee, &c., enters 1000 acres upon a Treasury warrant, on the bank of the Ohio, opposite to a small Island, and on the dividing ridge between the waters of a creek running into the Ohio not far below said Island, and the waters of a creek running into the river above said Island, to begin at the beforementioned ridge, on the bank of the river, and running down the same, binding thereon, westwardly, and then at right angles, to the same or general course of the river, and back, eastwardly, to said ridge, for quantity.

Also, 1,000 acres to begin at the most western corner of the above mentioned tract, on the river bank, and to extend down the said river, binding thereon, running the different courses, then southerly and eastwardly, to run with the lower line of the above entry, out for quantity.

Also, 1,000 to begin at the lower corner of the above entry on the bank of the river, and with its different courses binding thereon,

down the same, westwardly, by binding the first line of each entry on the bank of the Ohio, laying 1,000-acre tracts after another successively, till they extend to a slash or some drowned lands of said river, thence the different courses of said drowned land, bounding by the same, southerly and westerly, so as not to interfere with older legal claims, in this case, to begin at the southernmost corner of the first tract herein mentioned, and with the said ridge that bounds the first tract on the east side or end of the said first tract, from thence southerly 1 mile, if not interfering with the before mentioned claims, and bounding, northerly, on the first tracts mentioned in this location, running westwardly for quantity, and so continuing to bind one 1,000-acre tract by another as is directed by law, to the amount of 71,962 acres.

Copies.

Attest: JNO. M. FOSTER, *R. L. O.*

By E. A. MACURDY, *D. K.*

October 26th, 1780.

Amendment to Entry of 74,962 *acres.*

Col. George Rogers Clark offers to make the following amendment to his several entries of 74,962 acres, entered 18th May, 1780, viz. to begin on the Ohio, at the mouth of the Tennessee river, running down the Ohio, bounded by the drowned lands of said river, and the waters of the Mississippi, for quantity of 74,962 acres in one or more surveys.

N. B. The 74,962 acres should be 73,962 acres, but cannot be altered until a copy given out is returned.

A copy.

Attest: JNO. M. FOSTER, *R. L. O.*

By E. A. MACURDY, *D. K.*

Notes of Reference.

A. A black ash stump on the bank of the Ohio river, at the mouth of the Tennesse river. Beginning corner of Gen'l. George Rogers Clark's survey, patented for 36,962 acres.

B. 2 white oaks standing on the west bank of Island creek, corner to sd. Clark's.

C. 5 black oak saplings in a hollow on flat, running north, and not far from a ridge on the south.

D. A dead walnut standing on the bank of the Ohio river.

Thence up and along the meanders of the Ohio river, the following courses and distances:

S. 56° E. 100 poles,
S. 69° E. 320 to
S. 80° E. 140
East, 160
S. 87° E. 140 to
S. 33° E. 140 poles,
S. 20° E. 80
S. 37° E. 66
S. 46° E. 78 po. to Island ck.
S. 57° E. 120

N. 88° E.	240	S. 68° E.	60
S. 82° E.	380	S. 72° E.	74
S. 73° E.	326 to	S. 77° E.	60
S. 77° E.	400	S. 81° E.	28 poles,
S. 80° E.	240	to beginning.	
S. 72° E.	160		
S. 68° E.	240		
S. 62° E.	60		
S. 57½° E.	188		
S. 52° E.	72		
S. 47° E.	68		
S. 35° E.	60		

The line from A to B, crosses Island creek at 1,500 poles.

The line from B to C, running north 77 ° west 4,000 poles, crosses a branch or fork of Massack creek, at 2,072 poles, a second one at 2,640 poles, a third one at 3,262 poles, and a fourth at 3,876 poles.

The line from C to D, crosses a branch of 4-mile-creek, and a lake or pond.

The course of the river from D to A, is southeasterly and the distance 4,000 poles.

Distance from the nearest point of main land between the Ohio and Tennesse rivers, to the head of the Tennessee Island, is 140 poles, or 770 yards.

Distance from the lower point of the Tennessee Island, to the nearest point of the Kentucky shore, is 76 poles, or 418 yards.

J. H. TERRILL,
Depy. Surveyor.

In obedience to an order of survey in the case of Wm. Clark, against Andrew Smith, in the United States court, 7th circuit district of Kentucky, as deputy surveyor of McCracken county, I did, on the 7th day of February, 1837, proceed to the beginning corner of George Rogers Clark's survey of 36,926 acres at the mouth of the Tennessee river, shewn to me by John S. Hardin, as the original corner of said survey. I there found an ash stump, but no trees anciently marked as corners: thence south 7° west 1,516 poles, crossing a creek at 1,500 poles to two white oaks standing on the west bank of sd. creek, which emptied in the Ohio opposite the Island; said white oaks were, from their appearance, anciently marked as corners, and recently re-marked as such. This corner was also shewn to me by sd. Hardin, as second corner of said survey. Thence N. 77 ° W. 4,000 poles, crossing a branch of Massack at 2,072 poles, a second at 2,640, a third at 3,262 poles, and a fourth at 3,876 poles to five small black oaks, recently marked as corner, which stand in a black oak growth, near the head of a hollow, running north, and near a ridge on the south. The timber here is small. Thence N. 14° E. 2,114 poles to a dead walnut on the bank of the Ohio river, crossing a branch of 4-mile-creek, now called Bayou creek, and a lake or large pond. This walnut is marked as a corner with very ancient

marks; and stands 940 poles below fort Massack. Thence up and along the meanders of the Ohio river 4,000 poles to beginning.

JNO. H. TERRILL, *Depty. Svy'r.*
of John Hardin, Surveyor of
McCraken County, Kentucky.

[See original plat.]

Patent to G. R. Clarke for 36,962 *acres.*

Isaac Shelby, Esqr., Governor of the Commonwealth of Kentucky: To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of 14 land office Treasury warrants, Nos. 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, and 1826, there is granted by the said Commonwealth, unto Brig'r. Gen'l. George Rogers Clarke, a certain tract or parcel of land, containing thirty-six thousand nine hundred and sixty-two acres by survey, bearing date the 7th day of June, 1784, lying and being in Lincoln county, and on the Ohio river, and bounded as followeth, to wit: Beginning at three maples, two ashes, and a hackberry, on the bank of the Ohio, at the mouth of Tennessee river, running from thence south 16° west 1,280 poles, crossing a creek to two white oaks, and three maples standing on the bank of the creek that empties into the Ohio at the lower end of the Island, at the mouth of Tennessee; thence N. 74° west 3,840 poles, crossing a fork of Massac creek at 1,830 poles, another at 2,340 poles, a branch at 3,000 poles, and another at 3,396 poles to five black oak saplings in the head of a hollow, running north near the top of a high ridge, thence N. 16° east 1,800 poles, crossing a branch of Four-mile-creek and a pond to a black walnut, elm and hoopwood on the bank of the Ohio, about 3 miles below fort Massack, thence running up the Ohio with its several meanders, 4,480 poles, to the beginning, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said Brigr. General George Rogers Clarke, and his heirs forever.

In witness whereof, the said Isaac Shelby, Esq., Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of the said Commonwealth [SEAL.] to be affixed, at Frankfort, on the 15th day of September, in the year of our Lord, one thousand seven hundred and ninety-five, and of the Commmonwealth the fourth.

By the Governor, ISAAC SHELBY.

JAMES BROWN, *Secy.*

A copy attest: JNO. M. FOSTER, *R. S. W.*
By E. A. MACURDY, *D. K.*

[See original plat.]

Surveyed for George Rogers Clarke, 36,962 acres of land by virtue of 14 treasury warrants No. 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, and 1826, ass'ee of Nathl. Randolph, lying in Lincoln county, and on the Ohio. Beginning at A, three maples, two ashes and a hackberry, on the bank of the Ohio, at the mouth of the Tennessee river, running from thence south 16° west 1,280 poles, crossing a creek to B, two white oaks and three maples, standing on the bank of the creek that empties into the Ohio at the lower end of the Island, at the mouth of the Tennessee, thence N. 74, west 3,840 poles, crossing a fork of Massac creek at 1,830 poles, another at 2,347 poles, a branch at 3,000 poles, and ather at 3,396 poles to five black oak saplings in the head of a hollow, running north near the top of a high ridge, thence N. 16° E. 1,800 poles, crossing a branch of Four-mile-creek, and a pond to D, a black walnut elm and hoopwood on the bank of the Ohio, about three miles below fort Massac, thence running up the Ohio with its several meanders 4,480 poles, to the beginning.

GREEN CLAY, *Asst.*
JAMES THOMPSON, *S. L. C.*
A copy attest: JNO. M. FOSTER, *R. L. O.*
By E. A. MACURDY, *D. K.*

June 7th, 1784.

Patent to An. Smith, 160 *as.*

James F. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky. To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office, at Waidsboro, agreeably to an act of Assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the S. W. quarter of section thirteen, township seven, range one, west, containing one hundred and sixty acres, with its appurtenances. To have, and to hold the said tract or parcel of land, with its appurtenances to the said Andrew Smith, and his heirs forever.

In witness whereof, the said James T. Morehead, Esqr., lieutenant and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [L. S.] seal of the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord, one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

J. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith, has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Do.

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky: To all to whom these presents shall come greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro, agreeably to an act of Assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the southeast quarter of section fourteen, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances: To have, and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs forever.

In witness whereof, the said James T. Moorehead, Esq., lieutenant, and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and [SAEL.] caused the seal of the said Commonwealth to be affixed at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O*

Patent to Smith, 160 *acres.*

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky. To all to whom these presents shall come, greeting:

Ynow ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro,' agreeably to an act of Assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the southeast quarter of section eleven, township seven, range one, east one hundred and sixty acres, with its appurtenances: To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five.

By the lieutenant and acting governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky. To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro', agreeably to an act of Assembly approved the third day of January, one thousand eight hundred and twenty-five, there is granted, by the said commonwealth, unto Andrew Smith, the southeast quarter of section twenty-three, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances: To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] seal of the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the lieutenant and acting governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky. To all to whom these presents shall come, greeting:

Know ye that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro,' agreeably to an act of Assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the southwest quarter of section fourteen, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances: To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] seal of the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the lieutenant and acting governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky. To all to whom these presents shall come, greeting:

Know ye, that by virtue aud in consideration of the sum of twenty

dollars, paid into the receiver's office, at Waidsboro', agreeably to an act of Assemly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the southwest corner of section twenty-three, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances: To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] seal of the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the lieutenant and acting governor.

JS. T. MOREHEAD.

W. OWSLEY, *Seeretary of State.*

Andrew Smith has title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky. To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro', agreeably to an act of Assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted, by the said Commonwealth, unto Andrew Smith, the northeast quarter of section twenty-three, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances: To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., lieutenant aad acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] seal of the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the lieutenant and acting goveruor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.
JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, to all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office, at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth unto Andrew Smith, the northwest quarter of section twenty-four, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of
[L. S.] the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the Lieutenant and Acting Governor.
J. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.
JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, to all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office, at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth unto Andrew Smith, the N. E. quarter of section twenty-four, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of
[L. S.] the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the Lieutenant and Acting Governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, to all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office, at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth unto Andrew Smith, the northwest quarter of section thirteen, township seven, range one, east, containing 160 acres, with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of
[L. S.] the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the Lieutenant and Acting Governor.

J. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, to all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office, at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the northwest quarter of section twenty-three, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of
[L. S.] the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the Lieutenant and Acting Governor.

J. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Moorehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky: to all to whom these presents shall come greeting:

Know ye, that by virtue and in the consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the northeast quarter of section fourteen, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the
[L. S.] seal of the said Commonwealth to be affixed at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commononwealth, the forty-third.

By the Lieutenant and Acting Governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.
JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Moorehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky: to all to whom these presents shall come greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted, by the said Commonwealth, unto Andrew Smith, the south quarter of section twenty-four, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs forever.

In witness whereof, the said James T. Morehead, Esq. Lieutenant and Acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [L. S.] seal of the said Commonwealth to be affixed at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth, the forty-third.

By the Lieutenant and Acting Governor.
JS. T. MOREHEAD.
W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.
JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *acres.*

James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky: to all to whom these presents shall come greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and thirty-five, there is granted, by the said Commonwealth, unto Andrew Smith, the S. W. quarter of section nineteen, township seven, range two, east, containing one hundred and sixty acres, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [L. S.] seal of the said Commonwealth to be affixed at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred thirty-five, and of the Commonwealth, the forty-third.

By the Lieutenant and Acting Governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Ditto.

James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky: to all to whom these presents shall come greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted, by the said Commonwealth, unto Andrew Smith, the N. E. fractional quarter of section ten, township seven, range one, east, containing 160 acres, with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused [L. S.] the seal of the said Commonwealth to be affixed at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth, the forty-third.

By the Lieutenant and Acting Governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 acres.

James T. Morehead, Lieutenant and Acting Governor of the Commonwealth of Kentucky: to all to whom these presents shall come greeting:

Know ye, that by virtue, and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the northwest quarter of section fourteen, township seven, range one, east, containing 160 acres, with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs, forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [L. S.] seal of the said Commonwealth to be affixed at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth, the forty-third.

By the Lieutenant and Acting Governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith for 57 as. 142 p.

James T. Morehead, Esq., lieutenant and acting governor of the commonwealth of Kentucky: To all to whom these presents shall come greeting:

Know ye, that by virtue and in consideration of the sum of seven dollars 25 cents, paid into the receiver's office, at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted, by the said commonwealth, unto Andrew Smith, the N. E. quarter of section eleven, township seven, range one, east, containing 57 acres 142 poles, being a fraction, with its appurtenances, to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof the said James T. Morehead, lieutenant and acting governor of the commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of the said [L. S.] commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty , and of the commonwealth the forty-third.

By the Lieutenant and Acting Governor,

J. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 64 as.

James T. Morehead, Esq., lieutenant and acting governor of the commonwealth of Kentucky: To all to whom these presents shall come greeting:

Know ye, that by virtue and in consideration of the sum of eight dollars, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said commonwealth, unto Andrew Smith, the southwest quarter of section twenty, township seven, range two, east, containing sixty-four acres, being a fraction, with its appurtenances, to have and to hold said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof the said James T. Morehead, Esq., lieutenant and acting governor of the commonwealth of Kentucky hath hereunto set his hand, and caused the seal of
[L. S.] the said commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the commonwealth the forty-third.

Byhe Lieutenant and Acting Governor,

J. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 as.

James T. Morehead, Esq., lieutenant and acting governor of the commonwealth of Kentucky. To all to whom these presents shall come greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said commonwealth, unto Andrew Smith, the south east fractional quarter of section four, township seven, range one, east, containing 160 acres, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof the said James T. Morehead, Esq., lieutenant and acting governor of the commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of
[L. S.] the said commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the commonwealth the 43d.

By the Lieutenant and Acting Governor,

J. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.
JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *as.*

James T. Morehead, Esq., lieutenant and acting governor of the commonwealth of Kentucky. To all to whom these presents shall come greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said commonwealth, unto Andrew Smith, the south-west quarter of section eleven, township seven, range one, east, containing 160 acres, with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof the said James T. Morehead, Esq., lieutenant and acting governor of the commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of [L. S.] the said commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the commonwealth the forty-third.

By the Lieutenant and Acting Governor,
JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.
JNO. M. FOSTER, *R. L. O.*

Patent, Smith, 7 *as.* 48 *ps.*

James T. Morehead, Esq., lieutenant and acting governor of the commonwealth of Kentucky. To all to whom these presents shall come greeting:

Know ye, that by virtue and in consideration of the sum of 93¾ cents, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said commonwealth, unto Andrew Smith, the south-west quarter of section two, township seven, range one, east, containing 7 as. 48 poles, being a fraction, with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof the said James T. Morehead, Esq., lieutenant and acting governor of the commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of
[L. S.] the said commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the commonwealth the forty-third.

By the Lieutenant and Acting Governor,

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 160 *as.*

James T. Morehead, Esq. Lieutenant and Acting Governor of the Commonwealth of Kentucky: To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of twenty dollars paid into the reciever's office at Waidsboro', agreeably to an act of assembly approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said commonwealth, unto Andrew Smith, the southwest quarter of section twenty-four, township seven, range one, east, containing one hundred and sixty acres, with its appurtenances: To have and to hold the said tract or parcel of land, with its appurtenances to the said Andrew Smith and his heirs forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and acting governor of the commonwealth of Kentucky, hath hereunto set his hand, and caused the
[L. S.] seal of the said commonwealth to be affixed at Frankfort on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the commonwealth the forty-third.

By the Lieutenant and Acting Governor.

JS. T. MOREHEAD

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 79 *as.,* 55 *poles.*

James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky: To all to whom these presents shall come, greeting:

Know ye, that by virtue, and in consideration of the sum of $9,94 cents, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand

eight hundred and twenty-five, there is granted by the said commonwealth, unto Andrew Smith, the N. W. fractional quarter of section four, township seven, range one, east, containing 79 acres, 55 poles, with its appurtenances: To have and to hold the said tract or parcel of land with its appurtenances to the said Andrew Smith and his heirs forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused [SEAL.] the seal of the said commonwealth to be affixed at Frankfort, on the 30th day of May, in the year of our Lord, one thousand eight hundred and thirty-five, and of the commonwealth the 43d.

By the Lieutenant and Acting Governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 72 acres, 29 poles.

James T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky: To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of $9 05 cents paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said commonwealth, unto Andrew Smith, the N. W. quarter of section thirteen, township seven, range one, east, containing 72 acres, 29 poles, being a fraction, with its appurtenances: To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof the said James T. Morehead, Esq., Lieutenant and Acting Governor of the commonwealth of Kentucky, hath hereunto set his hand, and caused the seal [SEAL.] of the said commonwealth to be affixed at Frankfort, on the 30th day of May, in the year of our Lord, one thousand eight hundred and thirty-five, and of the commonwealth the forty third.

By the Lieutenant and Acting Governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 48 acres, 119 poles.

ames T. Morehead, Esq., Lieutenant and Acting Governor of the Commonwealth of Kentucky: To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of $18 60 cents paid into the receiver's office at Waidsboro', agreeably to an act of assembly approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said commonwealth, unto Andrew Smith, the southeast quarter of section thirteen, township seven, range one, east, containing 48 acres, 119 poles, being a fraction, with its appurtenances. To have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and Acting Governor of the commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] seal of the said commonwealth to be affixed at Frankfort, on the 30th day of May, in the year of our Lord, one thousand eight hundred and thirty-five, and of the commonwealth the forty-third.

By the Lieutenant and Acting Governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 140 *Acres,* 10 *Poles.*

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky: To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of $17 52 cents, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said commonwealth, unto Andrew Smith, the southwest quarter of section three, township seven, range one, east, containing one hundred and forty acres, 10 poles, being a fraction, with its appurtenances: to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof, the said James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] seal of the said commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord, one thousand eight hundred and thirty-five, and of the commonwealth the forty-third.

By the lieutenant and acting governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.
JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 98 *Acres*, 10 *Poles.*

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky: To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of $12 30 cents, paid into the receiver's office at Waidsboro', agreeably to an act of Assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted, by the said commonwealth, unto Andrew Smith, the southwest quarter of section twelve, township seven, range one, east, containing 98 acres and ten poles, being a fraction, with its appurtenances: to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof, the said James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] seal of the said commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord, one thousand eight hundred and thirty-five, and of the commonwealth the forty-third.

By the lieutenant and acting governor.
JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.
JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 110 *Acres.*

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky: To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of $13 75 cents, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted, by the said commonwealth, unto Andrew Smith, the northwest quarter of section nineteen, township seven, range two, east, containing one hundred and ten acres, being a fraction, with its appurtenances: to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof, the said James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] seal of the said commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the commonwealth the forty-third.

By the lieutenant and acting governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 133 *Acres.*

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky: To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of $16,62½ cents, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted, by the said commonwealth, unto Andrew Smith, the southeast quarter of section nineteen, township seven, range two, east, containing one hundred and thirty-three acres, being a fraction, with its appurtenances: to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof, the said James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] seal of the said commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the commonwealth the forty-third.

By the lieutenant and acting governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 29 *Acres,* 35 *Poles.*

James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky: To all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of the sum of $3 67 cents, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted, by the said Commonwealth, unto Andrew Smith, the N. E. quarter of section four, township seven, range one, east, containing twenty-nine 35 poles, being a fraction, with its appurtenances: to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof, the said James T. Morehead, Esq., lieutenant and acting governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the [SEAL.] seal of the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the lieutenant and acting governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Patent to Smith, 144 *as.*, 23 *ps.*

James T. Morehead, Esq. lieutenant and acting Governor of the Commonwealth of Kentucky; to all to whom these presents shall come greeting: know ye, that by virtue and in consideration of the sum of $18 10 cents, paid into the receiver's office, at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the N. W. quarter of section eleven, township seven, range one, east, containing 144 as., 23 poles, being a fraction with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs forever.

In witness whereof, the said James T. Morehead, Esq. Lieutenant and acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of [L. S.] the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the Lieutenant and acting Governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.
JNO. M. FOSTER, *R. L. O*

Patent to Smith, 2 as. 40 ps.

James T. Morehead, Esq. Lieutenant and acting Governor of the Commonwealth of Kentucky, to all to whom these presents shall come greeting: know ye, that by the virtue and in consideration of the sum of 28 cents, paid into the receiver's office at Waidsboro', agreeably to an act of assembly, approved the third day of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the southeast quarter of section twelve, township seven, range one, east, containing 2 acres and 40 poles, being a fraction with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith and his heirs forever.

In witness whereof, the said James T. Morehead, Esq. Lieutenant and acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand and caused the seal of
[L. S.] the said Commonwealth to be affixed at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the Lieutenant and acting Governor.
JS. T. MOREHEAD, *R. L. O.*

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.
JNO. M. FOSTER.

Patent to Smith, 76 as. 65 ps.

James T. Morehead, Esq., Lieutenant and acting Governor of the Commonwealth of Kentucky; to all to whom these presents shall come greeting: know ye, that by virtue and in consideration of the sum of $9 58 cents, paid into the receiver's office, at Waidsboro', agreeably to an act of assembly, approved the third of January, one thousand eight hundred and twenty-five, there is granted by the said Commonwealth, unto Andrew Smith, the southeast quarter of section three, township seven, range one, east, containing 76 acres, 65 poles, being a fraction with its appurtenances; to have and to hold the said tract or parcel of land, with its appurtenances, to the said Andrew Smith, and his heirs forever.

In witness whereof, the said James T. Morehead, Esq., Lieutenant and acting Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of
[L. S.] the said Commonwealth to be affixed, at Frankfort, on the 30th day of May, in the year of our Lord one thousand eight hundred and thirty-five, and of the Commonwealth the forty-third.

By the Lieutenant and acting Governor.

JS. T. MOREHEAD.

W. OWSLEY, *Secretary of State.*

Andrew Smith has a title to the within tract of land.

JNO. M. FOSTER, *R. L. O.*

Record from Jefferson Circuit Court.

STATE OF KENTUCKY—*Jefferson Circuit, Sct.*

JOHN THRUSTON'S Exor. Compl't, *against* GEORGE R. CLARK'S Heirs Def'ts. } In Chancery.

PLEAS

In chancery, held before the honorable John P. Oldham, sole judge of the Jefferson circuit court, at the court-house in Louisville, on the twenty-second day of November, one thousand eight hundred and twenty-four.

Be it remembered that heretofore, that is to say, on the sixteenth day of May, one thousand eight hundred and twenty-one, Edmund H. Taylor, executor of John Thruston dec'd, by Charles M. Thruston, Esquire, his counsel, filed in the clerk's office of the Jefferson circuit court, the following bill in chancery and exhibit, to wit:

"To the honorable judge of the Jefferson circuit, sitting in chancery, humbly complaining unto your honor, sheweth. Your orator, Edmund H. Taylor, only acting executor of the last will and testament of John Thruston dec'd; that on or about the day of , in the year 1801, George Rogers Clark, otherwise called G. R. Clark, being indebted to your orator's testator, in the sum of five hundred and thirty-four pounds, three shillings and five pence; to secure the payment thereof, executed to said John Thruston, his deed of mortgage herewith filed and marked A., made part hereof, to *the* secure the payment of the said sum of money, in said mortgaged mentioned.

Your orator further states, that the said Clark wholly failed, according to the terms and conditions of s'd mortgage, to pay the sum of money and interest due thereon at the time specified in said mortgage, or at any time thereafter.

Your orator further states, that previous to the day of , the period at which the s'd sum of money mentioned in said deed of mortgage was to have been paid, the s'd John Thruston departed this life, to wit, about the day of , 1802, having first made his last will and testament, in and by which he appointed his wife, Elizabeth, ex'x, and Buckner Thruston, Alexand. Scott Bullitt, Thomas January, and himself, executors thereof; that of the afs'd ex'rs and executrix, your orator has alone taken upon himself the burthen and execution of the will; a copy of which will, and of his letter testamentary, your orator files herewith, as a part of this bill.

Your orator further states, that most of the lands mentioned and conveyed by s'd mortgage laid at that time in part of the country to which the Indian title was not extinguished; that such title has been but lately extinguished; and that a part of the mortgaged premises which had not been surveyed, your orator is informed, and believes, the heirs of s'd G. R. Clark, who has since departed this life, are now surveying, and intend carrying the same into grant; and he really apprehends that they feel a disposition to dispose of said lands, or hamper them in such a way as to prevent a recovery herein.

Your orator further states, that the mortgage was never recorded by said John Thruston in his life-time; and he is convinced, and charges the fact to be, that said John Thruston omitted to have the same recorded, owing the strict intimacy and friendship between him and said Clark, and from the most perfect confidence that each had in the integrity of the other; that for many years previous to the death of the s'd G. R. Clark, which happened about the day of , 18 , the s'd Clark had been visited with apoplexy, which for many years rendered him incapable of attending to any species of business, and which materially impaired his powers of utterance, and the strength of his mental faculties.

Your orator , that said G. R. Clark died without having made a will, unmarried, and that his estate, real and personal, descended to William Clark, of the State of Missouri, Richard C. Anderson, Jr., Cealia Anderson, Eliza Anderson, now the wife of Isaac Gwathmey, and Ana Logan, now the wife of a certain John Logan, to Owen Gwathmey and *and* his wife, to Dennis Fitzhugh, and Frances, his wife, to John H. Clark, Isaac Clark, Geo. W. Clark, William Clark, James A. Pearce and Nancy, his wife, Benjamin Temple and Eleanor E., his wife, William Croghan, Sen., and Lucy, his wife, all of whom are of full age, and reside in this circuit, and all of whom, your orator prays, may be made def'ts to this bill.

Your orator further states, that the said William Croghan, and the said W. Clark, of Missouri, and the said Dennis Fitzhugh, have for many years had full knowledge of the justness of the claim, and the existence of the mortgage afs'd.

He further states, that the mutilated condition of the mortgage afs'd has, as he has been informed, and believes, proceeded from its having been touched with nitric acid.

He further states, as an additional reason why the mortgage afs'd has not long since been acted upon, was, that since the execution of

s'd mortgage, up to his death, said Clark laboured under pecuniary embarrassments, and your orator felt, under all these circumstances, no disposition to press the foreclosure of said mortgage.

But now, so it is, may it yr. honour, the said defendants, combining and confederating with divers other persons, unknown to your orator, are using every effort and means to avoid the payment of the mortgage debt, and to protect the estate of s'd G. R. Clark from the payment of the same.

In tender, &c., and for as much, &c., your orator prays the Commonwealth's writ of spa., directed, &c., commanding, &c., that said def'ts, heirs of s'd Clark, be decreed to pay to your orator the mortgage debt afs'd, with interest, by such time, and in such manner, as this honorable court shall direct, and that in default thereof, the defendants' equity of redemption of, in, and unto the mortgaged premises, be forever barred and foreclosed; that the property mortgaged as afs'd be subjected and held for the payment thereof; and that should said mortgaged property be found, upon a sale thereof, inadequate to pay the same, that then s'd def'ts make up the deficiency out of other estate descended to them from s'd G. R. Clark, which estate, so descended, your orator charges, consists of real estate in this Commonwealth, to the value of one hundred thousand dollars. And may it please your honour to grant to orator all such relief in the premises as to equity belongs, and the nature of his case authorises; and he will ever pray, &c.

ED. H. TAYLOR, *Ex'r.*
THRUSTON, *P. C.*

Rec'd the mortgage, marked A, filed herewith, 17th Jan'y, 1824.
THRUSTON, *P. C.*

On the filing of which bill, the following subpœnas in chancery were issued, to wit:

The Commonwealth of Kentucky, to the Sheriff of Jefferson County, greeting:

We command you, that you summon William Clark, William Croghan, Sen., and Lucy, his wife, Owen Gwathmey and Ann, his wife, Dennis Fitzhugh and Frances, his wife, Richard C. Anderson, Jr., John Logan and Ann, his wife, Isaac R. Gwathmey and Eliza, his wife, Cecelia Anderson, John H. Clark, Isaac Clark, George W. Clark, Benjamin Temple and Eleanor, his wife, and James A. Pearce and Ana, his wife, to appear before the judge of our circuit court for the Jefferson circuit, at the court-house, in Louisville, on the 30th day of our present April term, to answer a bill in chancery exhibited against them by Edmund H. Taylor, the only qualified and acting executor of the last will and testament of John Thruston, dec'd; and this they shall in no wise omit, under the penalty of one hundred pounds each, and have then there this writ.

Witness Worden Pope, clerk of our said court, at the court-house

aforesaid, the 16th day of May, 1821, and in the 29th year of the Commonwealth.

WORDEN POPE.

Came to hand 18th of May, 1821, and executed on the within named Owen Gwathmey, Dennis Fitzhugh and wife, Richard C. Anderson, Jr., and John H. Clark, and not time to exeuute on the balance.

JOHN TALBOTT, *D. S.*,
For JNO. JONES, *S. J. C.*

At a circuit court held for the Jefferson circuit, at the court-house in Louisville, on the 16th day of May, 1821, came the complainant by his counsel, and it appearing to the satisfaction of the court, that the defendant, William Clark, is not an inhabitant of this Commonwealth, on the motion of the defendant, it is ordered, that unless the said defendant, William Clark, doth appear here on or before the first day of the next July term of said court, and enter his appearance herein, and answer the complainant's bill, the same will be taken as confessed against him, and the matters and things therein contained be decreed accordingly. And it is further ordered, that a copy of this order be inserted in some public authorized newspaper of this State for eight weeks successively, by weekly insertions.

And the complainant by leave of the court, filed in court an amended bill herein, which is certified, to wit:

" Edmund H. Taylor,only acting executor of John Thruston, deceased, in amendment to his original bill, filed in this court against G. R. Clerk's heirs, would state, that he does not know whether the said George Rogers Clark had at the time of the execution of the mortgage in the bill mentioned, or at his death, any title to the land in the said mortgage mentioned; and your orator prays that the said defendants may on oath be compelled to exhibit and file with their answers herein, all and every evidence of title which the said George R. Clark had, or which they, or any of them, to the lands in the said mortgage mentioned. Your orator further states, that the said George R. Clark, at his death, was seized and had the legal and equitable title to two tracts of about thirty-six thousand acres of land, each lying and being below the mouth of the Tennessee river, on the Ohio river, and which two tracts adjoin each other. Your orator prays, that the defendants may be compelled to exhibit with their answers herein, copies of the patents or such evidence as they may have or possess in relation to the right and title of said G. R. Clark to said two last tracts of land. And your orator prays, that if the lands conveyed in mortgage aforesaid, should prove insufficient for the purpose of satisfying the mortgage debt, that then, and in that case, the said two tracts of 36,000 acres each, or so much thereof, as may be adjudged, may be subjected for the purpose of satisfying the mortgage debt aforesaid, or any balance that may be after the mortgaged lands may have been subjected, your orator prays process against the defendants as named in his original bill. That they answer on

oath the matters hereof in addition to his original bill, and he prays your Honor to grant to him all such relief as his case requires, and he will pray, &c.

EDMUND H. TAYLOR,
Exeeutor aforesaid.

On the 26th day of May, 1821, the following subpœna and alias subpœna in chancery were issued, to wit:

The Commonwealth of Kentucky to the Sheriff of Shelby County, greeting:

We command you to summon John Logan and Ann his wife, and Isaac R. Gwathmey and Elizabeth his wife, to appear before the judge of our circuit court for the Jefferson circuit, at the court-house in Louisville, on the first day of our next July term, to answer a bill in chancery and an amendment thereto, exhibited against them and others by Edmund H. Taylor, the only qualified and acting executor of the last will and testament of John Thruston, deceased, and this the shall in nowise omit, under the penalty of one hundred pounds, and have then there this writ.

Worden Pope, clerk of our said court at the court-house aforesaid, this 26th day of May, 1821, and in the 29th year of the Commonwealth.

WORDEN POPE.

Came to hand the 20th June, 1821. Executed the 28th day of June, 1821, on the within named defendants.

GEORGE ROBINSON, *D. S.*
For Zas. Carpenter. S. S. C.

The Commonwealth of Kentucky to the Sheriff of Jefferson County, greeting:

We again command you to summon William Croghan, senior, and Lucy his wife, Owen Gwathmey and Ann his wife, Dennis Fitzhugh and Francis his wife, Richard C. Anderson, junior, John Logan and Ann his wife, Isaac R. Gwathmey and Eliza his wife, Cecelia Anderson, John H. Clark, Isaac Clark, George W. Clark, Benjamin Temple and Eleanor his wife, and James A. Pearce and Ann his wife, to appear before the judge of our circuit court for our Jefferson circuit, at the court-house in Louisville, on the first day of our next July term, to answer a bill in chancery and an amendment thereto, in our said court, exhibited against them by Edmund H. Taylor, the only qualified and acting executor of the last will and testament of John Thruston, deceased, and this they shall in nowise omit, under the penalty of one hundred pounds each, and have then there this writ.

Witness Worden Pope, clerk of our said court, at the court-house aforesaid, the 26th day of May, 1821, and in the 39th year of the Commonwealth.

WORDEN POPE.

Came to hand 1st June, 1821, and executed on the balance of the within named defendants, except William Croghan and wife.

JOHN TALBOTT, *D. S.*
for John Jones S. J. C.

At a circuit court held for the Jefferson circuit, at the court-house in Louisville, on the 17th day of July, 1821, came the defendant, Richard C. Anderson, junior, and swore and filed his answer in this cause.

The defendant, William Clark, by the said Anderson, filed his answer in this cause:

The answer of R. C. Anderson, junior, to a bill exhibited against him, &c., in the Jefferson circuit court, by Edmund H. Taylor, executor of John Thruston, deceased. This respondent answering, says, that he knows nothing of the execution of the mortgage or debt mentioned in the bill; he knows nothing of the land mortgaged, and did not know before the filing of this bill, that George Rogers Clark ever owned such land, except that he had heard that he owned an entry of 1,500 acres on the south side of Tennessee, but where it was, or what has become of it, he never knew. He does not know or believe, that G. R. Clark died seized of two tracts of 36,000 acres each, or of any other land. He does not admit or believe, that any lands or other property descended to him from the said G. R. Clark. He has no evidence of the title of any of the lands mentioned in his possession, nor ever had.

R. C. ANDERSON, Jr.

"Sworn to, in open court, by Richard C. Anderson, jr., this 17th July, 1821.

Test: ISAAC H. TYLER,
D. Clerk.

The answer of William Clark, one of the defendants to the original and amended bill of complaint of Edmund H. Taylor, only acting executor of the last will and testament of John Thruston, dec'd, complainant.

"This defendant now, and at all times hereafter, saving and reserving all and all manner of benefit and advantage of exception to the manifold errors, uncertainties, imperfections, and uncertainties, in the said complainants said bill of complaint contained, for answer thereto, or unto so much and such parts thereof as he, this defendant, is advised is material for him, this defendant, to make answer unto, he, this defendant, answering, saith, that he knows nothing of the execution of the mortgage deed set out in the complainants bill of complaint, and marked, (exhibit A) nor whether the same was bona fide for a good and valuable consideration, as expressed in said mutilated exhibit, nor how, why, nor what manner the same has become mutilated and defaced, nor why the same has not been long since enforced and foreclosed, and the mortgaged premises sold in satisfaction of the debt, so alleged to be remaining due and unpaid. That

true it is, your respondent, for some years past, has known of the existence of the said mutilated mortgage, but whether claim was originally just, as is pretended, or was or was not satisfied and discharged, your respondent is unable to state.

"This defendant further answering, saith, that the complainant is mistaken in alleging that most of the lands mentioned and conveyed by said mortgage, laid at that time in a part of the county to which the Indian title was not extinguished." For now, the truth is, only the last mentioned tract or entry was so situated, and the other three tracts were within the acknowledged and known civil limits of the State of Kentucky, and might have been sold upon the due proof, enrollment, and prosecution of the mortgage in the proper court, and would, as this respondent humbly conceives, at all times whilst the title to the same remained in the mortgagor, and subject to the said mortgage, (if indeed they were ever bound by and subject to said mortgage,) have sold for more than would have satisfied said mortgage debt, and the same (which, as your respondent has been informed, and believes it to be true,) are now in the possession of innocent persons, who purchased, or have become possessed thereof without the knowledge of any such mortgage or incumbrance as is complained of in the said complainant's bill of complaint, provided they are now subject and sold for the payment of the said mortgage debt, will bring more than enough to satisfy and discharge the same.

This respondent further answering, saith, that he has taken or received, by inheritance, from his deceased brother, G. R. Clark, no lands or real estate whatever, known to this respondent.

This respondent is well persuaded, and doth verily believe, that the complainant is also mistaken in alleging in his said bill of complaint, that the said respondent's brother, G. R. Clarke, died seized of two tracts of land of about thirty-six thousand acres each, lying and being below the mouth of the Tennessee river, on the Ohio river. That two tracts of land of about that quantity, and to which your respondent presumes the complainant intended to make reference, were sold and conveyed to this respondent by the said G. R. Clark, in his lifetime, and long before his death, by deed bearing date on or about the day of , which is of record in the office of the court of appeals in the State of Kentucky, and the original whereof is now on file in the court, and to which this respondent begs leave to refer the complainant for more particular information.

This respondent utterly denies all and all manner of fraud and combination, &c., and prays to be dismissed hence with his reasonable costs, &c. And, as in duty bound, your respondent will ever, &c.

WM. CLARK.

STATE OF MISSOURI, *County of St. Louis, ss.*

Be it remembered, that on the day of the date hereof, personally appeared before me, a justice of the peace for the county aforesaid, William Clark, who, being duly sworn on his oath, saith, that the matters in the foregoing answer, stated, as of his own knowledge,

are true, and those stated, as proceed from the information of others, he verily believes the same to be true.

WM. CLARK.

Sworn to, and subscribed this 26th day of June, A. D. 1821, before me.

J. C. GERAUD, *J. P.*

At a circuit court held for the Jefferson circuit on the 20th day of July, 1821, at the court-house in Louisville, came the defendant, Dennis Fitzhugh, by Richard C. Anderson, jr., his counsel, and filed his answer in this cause; which answer is in the following words and figures, to wit:

"The answer of Dennis Fitzhugh to a bill exhibited against them and others, in the Jefferson circuit court, by E. H. Taylor, executor of John Thruston, dec'd.

These respondents answering, says, that they know nothing of the mortgage or debt mentioned in said bill, except that in the year they saw the mutilated paper filed as (exhabet A,) but it was after the death of Gen. Geo. R. Clark, who departed this life sometime in the year 1818.

"These respts. knows nothing about the lands mentioned in said (exhabet A.)

"These respts. does not admit that Gen. Clark died seized or possessed of two tracts of land of about 36,000 acres each. They do not admit or believe that any lands or other property descended to them from to the said Genl. Geo. R. Clark, and prays to be hence dismissed with their costs, &c., &c.

D. FITZHUGH.

"Sworn to, in open court, by Dennis Fitzhugh, this 13th July, 1821.

Test: ISAAC H. TAYLOR
D. Clerk.

"At a circuit court continued and held as aforesaid, on the 28th day of July, 1821, ordered that this cause be continued until the next term.

"At which time, to wit, a circuit court, held as afs'd, on the 23d day of August, 1821, ordered that this cause be continued until the next term.

At which time, to wit, a circuit court, held as afs'd, on the 27th day of November, 1821, came the complainant by his counsel, and filed an amended bill in this cause, by leave of the court, which amended bill is in the words and figures following, to wit:

"Edmund H. Taylor, only acting executor of the last will and testament of John Thruston, in addition and amendment to his original bill, filed in this honorable court against the heirs of George Rogers Clark, would further represent and allege that the said George R. Clark died seized and possessed of divers and sundry large and

valuable tracts and lots of land in whats called Clark's grant, in the State of Indiana, but to what precise extent, or of what exact value your orator is unable to state; but he charges that he so died possessed, and was owner in fee of at least 10,000 of value of $50,000, all of which he charges, is and was, well known to all the defendants. He further charges, that since the death of the said George R. Clark, the said deft., William Clark, the brother of the said George, has sold and disposed of sundry tracts and lots of land descended as afs'd, to wit, to the amount of $2,000, and received the money therefor; and that previous to the death of said George, he had disposed of lands, the property of said George R. Clark, and received the amount of $1,000, all of which was, and is, well known to all the defendants in this suit. Your orator expressly calls upon the said George R. Clark, heirs, and particularly upon the said defts. William Clark, William Croghan, senior, and Dennis Fitzhugh, to file, with their answers herein to this amended bill, all the vouchers and evidences that they have in their possession, of any right, title or claim to lands, lots, or personal estate of which said George R. Clark died seized in law or in equity, lying in Indiana, afs'd, this State or elsewhere, and to shew and state their kind, quantity, and value, distinctly, precisely, and clearly; and also to shew and state, with their answers herein, what sales have been made by the said William Clark, William Croghan, senr., Dennis Fitzhugh, or any of them, and the facts and circumstances in relation thereto. Your orator further charges and states, that the pretended conveyance made by the said George R. Clark, (if any such exist,) to the said William Clark, was made for the purpose of rendering the estate of sd. George R Clark inaccessible to his creditors, and more particularly with the view of hoping thereby to defeat the fulfilment of an executory contract entered into by the said George R. Clark, with a certain Humphrey Marshall, for the sale of the lands alluded to in your orator's original bills; and that such conveyance, (if any exist,) was made upon the trust and confidence, and understanding, that the lands, &c. so conveyed, should descend to, and be equally divided amongst, all the brothers and sisters of said George R. Clark, and their descendants, all of which was, and is, well known to the said defendants. Your orator further charges and states, that the existence of the mortgage in the bill mentioned, has always been known to the said William Clark, since the moment of its execution, or shortly thereafter; that the said William Clark, about the time of the execution of sd. mortgage, and long previous thereto, as also the said George R. Clark, was a frequent visitor at the house of, and intimate acquaintances of the said John Thruston and his family, as was also the said William Croghan, to whom your orator imputes the same knowledge of said mortgage. Your orator would further state, that if the said George R. Clark did not die seized and possessed of the land in this and the original bills mentioned, that such lands were conveyed to the said William Clark for the purposes afs'd, and expressly upon the trust and confidence afs'd; and that such conveyance was without any consideration, all of which facts are and have

been well known to the defendants. Your orator prays that said defendants may be compelled on oath to answer the several matters and things in this bill contained, on their respective corporal oaths, as particularly, specifically, as if the same were herein again repeated, by way of interrogatory, and your orator prays all such relief in the premises, as to equity, and his case authorizes, and he will pray, &c.

CHS. M. THRUSTON, *Pro. Complt.* } EDM'D. H. TAYLOR, *Exor. of Jno. Thruston.*

At a circuit court held for the Jefferson circuit, at the court-house in Louisville, on the 1st day of December, 1821, ordered that this cause be continued until the next term.

At which time, to wit, a circuit court held as aforesaid, on the 24th day of January, 1822, came the defendant, Dennis Fitzhugh, and filed his answer to the complainant's amended bill, in this cause, which answer is in the words and figures following, to wit:

"The answer of Dennis Fitzhugh, to an amended bill, filed in the Jefferson circuit court, by Edmund H. Taylor, exr. of John Thruston, against him and others. This resp't for answer says: that he does not know or believe that George R. Clark died, seized of any lands in Clark's grant, in the State of Indiana. If he did the fact has never come to his knowledge. He knows nothing of the allegation charging that William Clark sold land before and since the death of the said George R. Clark, belonging to said estate, he has never heard of the facts, and does not believe it. He says that he has never made sale of any land, or other property, of the s'd G. R. Clark, either real or personal. He states his belief that the conveyance made to William Clark was not without consideration, but was for money actually advanced for the use of the said George R. Clark. He states that he has no vouchers or evidences in his possession shewing that G. R. Clark died, seized or possessed of any property. He thinks and believes that the allegations and insinuations in the said amended bill contained, are false, and *known* to be so by the complainant, if he really knows any thing about it. Having answered all that part of the bill which he can be required to answer, he prays to be dismissed with his costs."

D. FITZHUGH.

JEFFERSON COUNTY, *sct*:

This day Dennis Fitzhugh personally appeared before me, and made oath that the statements within, made of his own knowledge, are true, and those from the information of others, he believes to be true.

Given under my hand, this 1st January, 1822.

J. FERGUSON, *J. P. J. C.*

At a circuit court, held for the Jefferson circuit, at the court-house in Louisville, on the 12th day of Feb'ry, 1822, ordered that this suit be continued until the next term.

At which time, to wit, a circuit court held for the Jefferson circuit, at the court-house af's'd, on the 3d day of April, 1822, came the compl't, by his counsel, and filed his bill of revivor in this cause, against Benjamin Temple, and Eleanor E. Temple, his wife, James A. Pearce, and Nancy, his wife, Isaac Clark, William Clark, and George W. Clark, heirs at law of John H. Clark, dec'd, who has departed this life intestate; whereupon, on motion of the complainant, by his counsel, it is ordered, that the clerk of this court issue process accordingly, on the said bill of revivor, returnable to the first day of the next term of this court.

Edmund H. Taylor, acting executor of the last will and testament of John Thruston, dec'd, in amendment and revivor of his bill, in chancery, filed in this honorable court against the heirs of George R. Clark, dec'd, would state, that since the filing of his original bill in this case, John H. Clark, one of the heirs of s'd George R. Clark, has departed this life intestate, without issue, and unmarried; that Isaac Clark, William Clark, George Clark, Benjamin Temple, and Eleanor E., his wife, and James A. Pearce, and Nancy, his wife, are the heirs of the said George R. Clark, and that administration of the estate of the said John H. Clark, has been committed by the county court of Jefferson county, to the said Isaac, upon the goods, chattels, and credits of the s'd John H. Clark. He makes the beforenamed heirs of the said John H. Clark, and s'd adm'r def'ts to this bill, and prays process against them; that this suit be revived against them; that they answer, &c., and he prays, as in and by his original bill, he has already prayed.

THRUSTON, *P. C.*

At a circuit court, held for the Jefferson circuit, at the court-house aforesaid, on the 6th day of April, 1822, ordered that this cause be continued until the next term.

At which time, to wit, a circuit court, held as aforesaid, on the 4th day of June, in the same year, came the defendant, William Clark, and filed his answer to the complainant's amended bill.

"The separate answer of William Clark, one of the defendants, to the second amended bill of Edmund H. Taylor, only acting executor of the last will and testament of John Thruston, dec'd, complainant. The defendant, saving and reserving to himself, now, and at all times hereafter, all manner of exeptions to the said complainant's second amended bill, answereth and saith, he humbly conceives it would be sufficient for him at present merely to refer to his (this respondent's) answer, on file in this cause, given to the many untruths, and idle, and impertinent allegations contained and charged in the original and first amended bill, and which are no where repeated in the second amended bill of the said complainant; nevertheless, this respondent states, that he knows nothing of the sundry large and valuable tracts and lots of land situated in what is called the Illinois grant, in the State of Indiana, of which George R. Clark died, seized, and possessed, unless the complainant intends to refer to three or four tracts of land of five hundred acres each, situated in

the Illinois grant, mortgaged by the said George R. Clark to Michael Lacassagne, or John Holker, and to which the equity of redemption he is informed still exists. This respondent, since the death of the said George Rogers Clark, has sold and disposed of no tract or tracts or lots of land, of which his deceased brother, George R. Clark, died, seized, and possessed, nor has he received two thousand dollars, or any other sum of money, for lands so descended. Some about the year 1800, this defendant sold a small tract of George R. Clark's land, situated on Sulphur lick, adjoining the 428 acres mentioned in the complainant's pretended mortgage, but he is not certain of receiving any money in payment; if he did receive money in payment, it was under three hundred dollars. This is the only land sold, and the only sum of money received for lands sold by this respondent for the said George R. Clark, to the best of his knowledge and belief. But were it otherwise, and the bill of the complainant accidently true in this particular, your respondent is at a loss to know by what right he is required to give an account of transactions during the lifetime of the said George Rogers Clark, that transpired even before the pretended mortgage was in existence, and which are not charged, or pretended to have been designed to injure or defraud the complainant, or to evade the payment of the pretended debt, not sought to be established against the estate of the said George Rogers Clark. This respondent has no vouchers or evidence of any right, title, or claim to lands or lots in his possession, of which the said George Rogers Clark, died, seized, in law or equity, in the State of Indiana, or elsewhere. The only vouchers or evidences of personal estate or debts due to the said George Rogers Clark, which were found amongst his papers, and of which nothing has ever been made, or is expected to be made by your respondent, will appear by reference to the schedule of old bonds, and notes, &c., hereto annexed, marked A, and intended as a part of this, your respondent's answer. This respondent *denies* that he ever received a conveyance of lands from George Rogers Clark, for the purpose of rendering them inaccessable to his (Geo. R. Clark's) creditors, or with a view or intention of defeating the fulfilment of any executory contract entered into by the said George R. Clark with Humphrey Marshall, or with any other person. He also *denies* that any understanding existed between the said George Rogers Clark and this defendant, that any lands conveyed by the former to the latter, should descend to, and be equally divided amongst, all the brothers and sisters and their descendants. This respondent repeats, that he knew nothing of the execution of the pretended mortgage when it was executed, nor has he any recollection of having ever heard of its existence until within a few years past. In 1802, this defendant moved from Kentucky to Indiana, and in 1803, left home on an expedition to the Pacific ocean, and did not return to Kentucky until the year 1806. Previous to his leaving Kentucky, this defendant was intimately acquainted with Col. John Thruston, and family, and was in the habits of visiting them frequently, as is stated in the complainant's bill, but has no recollection of ever having been informed of the existence of the mortgage in ques-

tion. After the statements already made in this, your respondent's answer, it can hardly be necessary to repeat (yet for a more full and perfect answer, this def't doth expressly charge) that the allegations of the complainant, *reiterated by his solicitor*, that certain lands alluded to in the original and amended bills of complaint, were conveyed to this defendant, upon trust, confidence, and understanding that the lands so conveyed, should descend and be equally divided amongst all the brothers and sisters of the said George Rogers Clark, and their descendants, was without any consideration, are absolutely false. It is known to the complainant, and to many other persons, residing in his neighborhood, that your respondent laid himself liable for, and had to pay, and did pay and discharge sundry large debts and sums of money contracted *by for* the said George Rogers Clark, and that your respondent was compelled to sacrifice his plantation and valuable property, in Louisville, to enable him to pay and discharge said debts, in consideration of which, the lands below the Tennesse river, on the Ohio river, referred to in the complainant's bill, was conveyed to your respondent, and were deemed at that time to have been well paid for by all those acquainted with their situation, and the incumbrances under which they were taken. And this defendant denies all manner of fraud wherewith he stands charged in and by the said second amended bill of complaint without that, that there is any other matter or thing, material or necessary, for this defendant to make answer unto, and not herein and hereby well and sufficiently answered unto, confessed or avoided, traversed or denied, is true.

WM. CLARK.

STATE OF MISSOURI, *County of St. Louis.* } CIRCUIT COURT, *February Term*, 1822.

I, Archibald Gamble, clerk of the circuit court for the county of St. Louis, do certify that William Clark personally appeared in open court, and made oath that the facts contained in the foregoing answer, and stated of his own knowledge, are true, and those facts stated from the information of others, he believes to be true. Given under my hand and seal of office at St. Louis, March 7th, 1822.

[SEAL.]

ARCHIBALD GAMBLE, *Cl'k.*

MISSOURI, *County of St. Louis, Sct:*

I, Nathaniel Beverly Tucker, judge of the third judicial circuit in the State of Missouri, comprehending the county of St. Louis, do hereby certify that the within certificate of Archibald Gamble, clerk of the circuit court of the said county, is in due and common form. Given nnder my hand and seal, March 7th, 1822.

N. B. TUCKER, [SEAL.]

A.

A schedule of old bonds and notes found amongst the papers of George Rogers Clark, after his death.

C. M. Thurston,	note	dated	28th	March,	1780, for	$1,595	9
T. Bentley,	do	do	19th	Feb'y,	1780,	300	00
T. Bentley,	do	do	1st.	June,	1781,	1,860	00
John Sanders,	do	do	25th	Feb'y,	1782,	7	10
Pat. Joyes,	do	do	15th	Oct.	1789,	125	
James Patten,	do	do	19th	March,	1790,	16	4
Mich'l. Dillon,	do	do	15th	April,	1796,	2 9	2
Ben. Pope, ass'd.	note dated 26th Oct. 1782, for 19 bushels of salt.						

At a circuit court held for the Jefferson circuit as afs'd. on the 29th day of June, 1822: Ordered that this cause be continued until the next term.

At which time, to wit, a circuit court held as afs'd. on the 15th day of July in the same year: Ordered that this cause be continued until the next term.

At which time, to wit, a circuit court held as aforesaid on the 26th day of September, in the same year; Ordered that this cause be continued until the next term.

At which time, to wit, a circuit court held as aforesaid on the 20th day of January, 1823, came the complainant by his counsel, and filed a bill of revivor in this cause against John Gwathmey, Samuel Gwathmey, George C. Gwathmey, Isaac R. Gwathmey, Catharine Woolfolk, wife of George Woolfolk, Betsy Anderson, wife of Richard C. Anderson, Jr., Diana M. Bullitt, wife of Thomas Bullitt, Temple Gwathmey, Lucy Priest, wife of Peter Priest, William Boothe, only son of Nancy Boothe, who was Nancy Gwathmey, and Francis Jones, heirs of Ann Gwathmey, deceased; and on his motion, it is ordered that this suit be revived and prosecuted against them and that process issue on said bill of revivor returnable to the thirtieth day of the next March term of this court, and William H. Boothe is appointed guardian to defend for the said William Boothe, and that process issue accordingly. And it appearing to the satisfaction of the court, that the defendant, Samuel Gwathmey, is not an inhabitant of this commonwealth. On the motion of the complainant by his counsel, it is ordered that unless the said defendant, Samuel Gwathmey, doth appear here on or before the forty-sixth day of the next March term of this court, and enter his appearance herein, and answer the complainants, original and amended bills, the same will be taken as confessed against him, and the matters and things therein contained be decreed accordingly. And it is further ordered that a copy of this order be inserted in some public authorized newspaper of this commonwealth for eight weeks successively, by weekly insertions.

Edmund H. Taylor, in amendment to his bill filed in this court against the heirs of George R. Clark, would state that Mrs. Gwathmey, wife Owen Gwathmey, and a sister and heir of said G. R. Clark has departed this life since the last term of this court, and that her

heirs are John Gwathmey, Samuel Gwathmey, George C. Gwathmey, Isaac R. Gwathmey, Catharine Woolfolk, wife of George Woolfolk, Betsy Anderson, wife of Richard C. Anderson, Jr., Deana M. Bullitt, wife of Thomas Bullitt, Temple Gwathmey, Lucy Priest, wife of Peter Priest, William Boothe, only son of Nancy Boothe, who was Nancy Gwathmey, and Francis Jones. He prays that this suit be revived against them and that said William Boothe who is an infant, defend this suit by his father, Wm. H. Boothe. He prays as in and by this former bills he has prayed.

THRUSTON, *P. C.*

On the 20th day of January, 1823, the following subpoenas in chancery were issued, to wit: The commonwealth of Kentucky, to the sheriff of Jefferson county, greeting:

We command you to summon John Gwathmey, Samuel Gwathmey, George C. Gwathmey, Richard C. Anderson, Jr. and Betsy, his wife, Thomas Bullitt, and Deana M. Bullitt, his wife, Temple Gwathmey, Peter Priest, and Lucy, his wife, Francis Jones, and William Boothe, and Wm. H. Boothe, his guardian, adlitem, to appear before the judge of our circuit court for the Jefferson circuit at the court-house in Louisville, on the thirtieth day of our present January term, to answer an original bill in chancery in our said court, exhibited against Owen Gwathmey, and Ann, his wife, and Wm. Clark and others, and a bill of revivor filed against them and others, in the same case by Edmund H. Taylor, executor of John Thruston, deceased, andhist they shall in no wise omit under the penalty of one hundred pounds, and have then there this writ; witness Warden Pope, clerk of our said court at the court-house aforesaid, the 20th day of January, 1823, and in the 31st year of the commonwealth.

WARDEN POPE.

"Note. That William H. Boothe, has been appointed by the Jefferson circuit court, to defend this suit for his infant son William Boothe, defet., who is an infant, and is to be notified accordingly, by the sheriff accordingly.

Test. WORDEN POPE, *Clk.*"

"Came to hand the 21st of January, 1823, executed on G. C. Gwathmey, Peter Priest and wife, and Francis Jones; the 22d of January, 1823, executed on Thos. Bullitt, and Deana, his wife; the 23d January, 1823, executed on William H. Booth; the 24th Jany. 1823, on Temple Gwathmey; the 29th January, 1823, on Richard C. Anderson, Jr., and Betsey, his wife; the 4th of February, 1823. John Gwathmey, and Samuel Gwathmey, not found.

T. BUCKNER, *S. B. C.*"

"The Commonwealth of Kentucky, *of Kentucky*, to the sheriff of Shelby county, greeting:"

"We command you to summon Isaac R. Gwathmey and George

Woolfolk, and Catharine, his wife, late Catharine Gwathmey, the said Isaac and Catharine, being two of the children and heirs of Ann Gwathmey, dec'd., to appear before the judge of our circuit court for the Jefferson circuit, at the court-house in Louisville, on the thirtieth day of our present January Term, to answer an original bill exhibited against William Clarke, Owen Gwathmey, and Ann, his wife, and others, and a bill of revivor filed against them and others, by Edmund H. Taylor, executor of John H. Thurston, dec'd. and this they shall in no wise omit, under the penalty of one hundred pounds each, and have then and there this writ.

Witness, Worden Pope, clerk of our said court, at the court-house aforesaid, the 20th day of January, 1823, and in the 31st year of the Commonwealth.

WORDEN POPE."

"Came to hand the 4th day of March, 1823, which was too late to execute.

GEO. ROBINSON, *D. S.*
For P. W. TAYLOR, *S. S. C.*"

"At a circuit court held for the Jefferson circuit, at the court-house in Louisville, on the first day of February, 1823, came the complainant, by his counsel, and on proof being made to the court by the oath of Charles M. Thruston, that Humphrey Marshall is a material witness for the complt. in this cause, and that the said Humphrey Marshall is aged and infirm, leave is given said complainant to take the deposition of the said Marshall, to be used on the trial of this cause. Provided the complainant shall have legal notice of the time when, and place where the same shall be taken, and this cause is continued until the next term."

"On the 15th and 16th days of March, 1823, the following subpœnas in chancery, were issued, to wit:"

"The Commonwealth of Kentucky, to the sheriff of Jefferson county, greeting:"

"We command you to sommon John Gwathmey, to appear before the judge of our circuit court for the Jefferson circuit, at the court-house in Louisville, on the 30th day of our present March Term, to answer a bill in chancery in our said court, exhibited against him and others, in the Jefferson circuit court, by Edmuud H. Taylor, executor of the last will and testament of John Thruston, dec'd., and this he shall in no wise omit under the penalty of one hundred pounds, and have then and there this writ."

"Witness Worden Pope, clerk of our said court, at the court-house aforesaid, the 15th day of March, 1823, and in the 31st year of the Commonwealth.

WORDEN POPE."

April 25th, 1823, service proved in the court by the oath of Milton Wilson:

"The Commonwealth of Kentucky, to the sheriff of Logan county, greeting:"

"We command you to summon Benjamin Temple, and Eleanor E. Temple, his wife, to appear before the judge of our circuit court for the Jefferson circuit, at the court-house in Louisville on the 33d day of our present March Term, to answer a bill in chancery in our said court exhibited against them and others, by Edmund H. Taylor, executors of the last will and testament of John Thruston dec'd, and this they shall in no wise omit, under the penalty of one hundred pounds each, and have then there this writ."

Witness Worden Pope, clerk of our said court, at the court-house aforesaid, the 15th day of March, 1823, and in the 31 year of the Commonwealth.

WORDEN POPE."

"I acknowledge service of the within subpœna, this 25th of March, 1823.

BENJ'A. TEMPLE."

Witness—JOHN N. BUSH.

"Executed on Eleanor E. Temple, on 26th March, 1823, by delivering to her a copy of the within, and reading this and explaining the same to her.

J. L. WATKINS, *D. S.*
For D. W. POOR, *S. L. C.*"

"The Commonwealth of Kentucky, to the sheriff of Shelby county, greeting:"

"We command you to summon John Logan, and Ann, his wife, and Isaac R. Gwathmey, and Elizabeth, his wife, to appear before the judge of our circuit court for the Jefferson circuit, at the court-house in Louisville on the 30th day of our present March Term, to answer a bill in chancery in our said court, exhibited against them and others, by Edmund H. Taylor, executor of the last will and testament of John Thruston, dec'd., and this they shall in no wise omit, under the penalty of one hundred pounds each, and have then there this writ."

"Witness Worden Pope, clerk of our said court, at the court-house aforesaid, the 16th day of March, 1823, and in the 31st year of the Commonwealth.

WORDEN POPE."

"Came to hand 20th March, 1823, and executed the 21st day of March, 1823.

GEO. ROBINSON, *D. S.*
For P. W. TAYLOR, *S. S. C.*"

"The Commonwealth of Kentucky, to the sheriff of Shelby county, greeting:"

"We command you to summon Isaac R. Gwathmey, and George Woolfolk, and Catharine, his wife, to appear before the judge of our circuit court, for the Jefferson circuit, at the court-house in Louisville, on the 30th day of our present March Term, to answer a bill in chancery, and a bill of revivor in our said court, exhibited against them and others, in sd. court by Edmund H. Taylor, executor of the last will and testament of John Thruston, dec'd., and this they shall in no wise omit, under the penalty of one hundred pounds each, and have then there this writ."

"Witness Worden Pope, clerk of our said court, at the court-house aforesaid, the 16th day of March, 1823, and in the 31st year of the Commonwealth.

WORDEN POPE."

"Came to hand the 20th March, 1823, and executed the 21st day of March, 1823, on the within named George Woolfolk and Isaack Gwathmey, and the within named Catharine Woolfolk is not found.

GEO. ROBINSON, *D. S.*
For P. W. TAYLOR, *S. S. C.*"

On the 29th day of March, 1823, the following subpœnas in chancery were issued, to wit:

The Commonwealth of Kentucky to the Sheriff of Fayette County, greeting:

We command you to summon George W. Clark to appear before the judge of our circuit court for the Jefferson circuit, at the court-house, in Louisville, on the 48th day of our present March term, to answer a bill in chancery in our said court, exhibited against him and others by Edmund H. Taylor, executor of John Thruston, dec'd, and also a bill of revivor, filed against him and others, in the same case, by said Edmund H. Taylor, executor as aforesaid. And this he shall, in no wise, omit, under the penalty of one hundred pounds. And have then and there this writ.

Witness Worden Pope, clerk of our said court, at the court-house aforesaid, the 29th day of March, 1823, and in the 31st year of the Commonwealth.

WORDEN POPE.

Executed April the 5th, 1823.

J. C. RICHARDSON, Jr., *S. F. C.*

The Commonwealth of Kentucky to the Sheriff of Jefferson County, greeting:

"We command you to summon Catharine Woolfolk, wife of George Woolfolk, to appear before the judge of our circuit court for the Jefferson circuit, at the court-house, in Louisville, on the 48th day of our present March term, to answer a bill in chancery in our said court, exhibited against her and others, by Edmund H. Taylor, executor of John Thruston, dec'd, and also a bill of revivor, filed against her and others, in the same case, by said Edmund A. Taylor, executor as aforesaid. And this she shall in no wise omit, under the penalty of one hundred pounds. And have then there this writ.

"Witness Worden Pope, clerk of our said court, at the court-house aforesaid, the 29th day of March, 1823, and in the 31st year of the Commonwealth.

"WORDEN POPE.

"Came to hand March 29th, 1823, and executed the same day on the within named Catharine Woolfolk.

WILLIAM BUCKNER, *D. S.*
For T. BUCKNER, *S. J. C.*

The Commonwealth of Kentucky to the Sheriff of Jefferson County, greeting:

We command you to summon Lucy Croghan, wife of William Croghan, deceased, to appear before the judge of our circuit court for the Jefferson circuit, at the court-house, in Louisville, on the 48th day of our present March term, to answer a bill and amended bills in chancery, in our sd. court, exhibited against her and others, by Edmund H. Taylor, executor of the last will and testament of John Thruston, deceased. And this she shall in no wise omit, under the penalty of one hundred pounds. And have then there this writ.

Witness Worden Pope, clerk of our said court, at the court-house aforesaid, the 29th day of March, 1823, and in the 31st year of the Commonwealth.

WORDEN POPE.

Came to hand the 10th day of April, 1823, and executed on the within named Lucy Croghan the same day.

WILLIAM BUCKNER, *D. S,*
For T. BUCKNER, *S. J. C.*

The Commonwealth of Kentucky to the Sheriff of Jefferson County, greeting:

We command you to summon Isaac Clark, William Clark, George Clark, James A. Pearce, and Nancy, his wife, and said Isaac Clark,

as adm'or of John H. Clark, deceased, to appear before the judge of our circuit court for the Jefferson circuit, at the court-house, in Louisville, on the 48th day of our present March term, to answer a bill in chancery, in our sd. court, exhibited against them and others, by Edmund H. Taylor, executor of John Thruston, dec'd, and a bill of revivor, filed against them and others, in the same case, by said Edmd. H. Taylor, executor as aforesaid. And this they shall in no wise omit, under the penalty of one hundred pounds. And have then there this writ.

Witness Worden Pope, clerk of our said court, at the court-house afsd., the 29th day of March, 1823, and in the 31st year of the Commonwealth.

WORDEN POPE.

Executed on all but George Clark.

WM. BUCKNER, *D. S*,
For T. BUCKNER, *S. J. C.*

I acknowledge the service of the within, for myself and wife.

JAMES A. PEARCE.

March 31st, 1823.

I acknowledge the service of a copy of this sp'a.

W. CLARK.

March 31st, 1823.

This day, March 31, I had William Clark a copy of the within.

JOHN POPE, Jr.

A true copy of the within del'd to J. A. Pearce.

B. HILL, *C. J. C.*

March 31st, 1823.

At a circuit court held for the Jefferson circuit, at the court-house, in Louisville, on the first day of April, 1823, came the complainant, by his counsel, and made proof to the court, by the oath of John Bush, that the process that issued in this case was levied on the defendant, Benjamin Temple, on the 25th day of March, 1823.

And at a circuit court held as aforesaid, on the second day of April, in the same year, came the defendant, Isaac R. Gwathmey and Elizabeth, his wife, by their counsel, and filed their joint answer to the complainant's bill and amended bills in this cause: which answer is as follows, to wit:

The answer of Isaac R. Gwathmey, and Elizabeth, his wife, to the bill and amendments exhibited against them, &c., in the Jefferson circuit court, by John Thruston's executors.

These respondents, saving and reserving to themselves all benefit of all manner of exceptions to the errors, uncertainties, and un*trus*, in said original and amended bills contained, for answer thereto, or so much there-

of as they are advised is material for them to answer, say they know nothing of the mortgage or debt mentioned in said bill. They have no knowledge of any property of which the said George R. Clark died seized or possessed. They know nothing of the lands mentioned in said mortgage, and do not know or admit that any lands or property descending to them from the said George. They have no evidence of any title in their possession of any of the lands in said bills mentioned. They deny all fraud, &c., and pray to be hence dismissed with their costs, &c.

ISAAC R. GWATHMEY.
ELIZABETH GWATHMEY.

"Isaac R. Gwathmey, and Elizabeth C. Anderson, late Elizabeth C. Gwathmey, in answer to the original and amended bills filed against them, &c., by John Thruston's ex'r, say they know nothing more than what is contained and set forth in the answer of Isaac R. Gwathmey, and Elizabeth, his wife, which they refer to as part of their answer. They admit they are the heirs of the late Ana, wife of Owen Gwathmey; they deny all fraud, and pray to be hence dismissed with their costs, &c.

ISAAC R. GWATHMEY,
ELIZABETH C. ANDERSON.

And on the same day came the defendants, George Woolfolk, and Catharine, his wife, by their counsel, and filed their joint answer to the complainants' bill in this cause, which answer is as follows, to wit:

"The joint answer of George Woolfolk, and Catharine, his wife, to a bill exhibited ag't them and others, in the Jefferson circuit court, by E. H. Taylor, Ex'r of Jno. Thruston.

These respondents state, that they have no knowledge of the statements set forth in compl'ts' bill. They never heard of the execution of the exhibit (A) until within the last twelve months. They know of no estate, either personal or real, that descended to them from G. R. Clark, nor do they claim any. They refer to the answers of Wm. Clark, filed herein, and pray that the same may be taken as part of this their answer. These respondents, knowing but little of the transaction, require of the compl't full proof of all the matters and allegations in his bills.

G. WOOLFOLK,
C. T. WOOLFOLK.

On the 4th day of April, 1823, the following subpœna in chancery was issued, to wit:

The Commonwealth of Kentucky to the sheriff of Jefferson county, greeting:

We again command you to summon Samuel Gwathmey to appear

before the judge of our circuit court for the Jefferson circuit, on the 35th day of our present March Term, at the court-house in Louisville, to answer a bill in chancery, and a bill of revivor, exhibited against him and others in our said court, by Edmund H. Taylor, executor of the last will and testament of John Thruston, dec'd, and have then there this writ.

Witness Worden Pope, clerk of our said court, at the court-house in Louisville, the 4th day of April, 1823, and in the 31st year of the Commonwealth.

WORDEN POPE.

Came to hand April 4th, 1823, and executed on same day, on the within named Samuel Gwathmey.

WM. BUCKNER, *D. S.*
For T. BUCKNER, *S. J. C.*

At a circuit court held for the Jefferson circuit, at the court-house in Louisville, on the 25th day of April, 1823, came the compl't, by his counsel, and made proof of service of the process in this case, by the oath of Milton Wilson, on the def't, John Gwathmey, on the 25th day of March, 1823, by delivering him a true copy thereof, which process is dated the 15th day of March, 1823, and returnable to the 30th day of the present term of this court.

At a circuit court, held as aforesaid, on the 3d day of May, 1823, came the def't, Lucy Croghan, by her counsel, and filed her answer to the complainants' original and amended bills, which answer is as follows, to wit:

"The answer of Lucy Croghan to the original and amended bills in chancery, filed in the Jefferson circuit court against her and others, by Edmund H. Taylor, executor of John Thruston, dec'd.

Your respondent, answering thereto, says she knows nothing of the mortgage or debt mentioned in said bill. She does not admit, or believe, that George R. Clark died seized, or possessed, of two tracts of land, of 36,000 acres each, below the Tennessee river. She positively denies that any land or other property descended to her by the death of G. R. Clark. This respondent has no knowledge of any of the other allegations of s'd bill, and having fully answered, prays to be dismissed, &c. &c.

LUCY CROGHAN.

JEFFERSON COUNTY, *Sct:*

Personally appeared before the undersigned, a justice of the peace for the county aforsaid, Mrs. Lucy Croghan, and made oath that the statements made in the foregoing answer are true, to the best of her knowledge and belief.

Given under my hand, this 2d day of May, 1823.

W. TOMPKINS, *J. P. J. C.*

And on the same day came the defendants, James A. Pearce, and Ann, his wife, and filed their joint answer to the complainants' bill herein, which answer is in the following words and figures, to wit:

"The answer of James A. Pearce, and Ann Pearce, his wife, late Ann Clark, to a bill in chancery, and amendments thereto, exhibited against himself and others, in the Jefferson circuit court, in the State of Kentucky, by the executor of John Thruston, dec'd.

This respondent, saving and reserving to himself all benefit and manner of exceptions to the many erroneous statements in said original and amended bills mentioned for answer thereto, or so much thereof as he is advised is material for him to answer, says: He knows nothing of the debt or mortgage mentioned in said bills, or any circumstances attending the same. That he does not at this time know of any real or personal property of which George Rogers Clark died possessed. That he does not now, nor never has, claimed title to any lands, or other property, descended to him from the said George Rogers Clark, to his knowledge. That this respondent has been informed, and verily believes, that a part of the lands mentioned in said bills was conveyed by George Rogers Clark to William Clark; and if for any other purpose, other than the consideration mentioned in said conveyance, this respondent does not know it. That should this respondent obtain title to any of the lands mentioned in said bill, he knows of no other source from which it could be received, than by conveyance from William Clark for a valuable consideration made to him. He denies all fraud, combination, collusion, &c., and prays to be dismissed, &c.

JAMES A. PEARCE.

"JEFFERSON COUNTY, *to wit:*

This day James A. Pearce made oath before the undersigned, a justice of said county, that the statements in the foregoing answer are true, to the best of his knowledge and belief.

Given under my hand, this 3d day of May, 1823.

J. FERGUSON, *J. P. J. C.*

And on the same day came the defendant, Samuel Gwathmey, into court, in his proper person, and filed his answer to the complainants' bill herein, which answer is as follows, to wit:

The separate answer of Samuel Gwathmey, to a bill in chancery, and amendments thereto, exhibited against himself and others, in the Jefferson circuit court, in the State of Kentucky, by the executor of John Thruston, deceased. This respondent saving and reserving to himself all benefit and manner of exceptions, to the many erroneous statements in said original and amended bills mentioned, for answer thereto, or so much thereof as he advised is material for him to answer, says he knows nothing of the debt or mort-

gage mentioned in said bills, or any circumstances attending the same. That he does not at this time know of any real or personal property, of which George Rogers Clark died possessed; that he does not now, nor never has claimed title to any lands or other property descended to him from the said George Rogers Clark, to his knowledge; that this respondent has been informed, and verily believes, that part of the lands mentioned in said bills was conveyed by George Rogers Clark to William Clark, and if for any other purpose other than the consideration mentioned in said conveyance, this respondent does not know. That should this respondent obtain title to any of the lands mentioned in said bill, he knows of no other source from which it could be derived, than by conveyance from William Clark, for a valuable consideration made to him. He denies all fraud, combination, collusion, &c.,and prays to be dismissed &c.

SAMUEL GWATHMEY.

JEFFERSON COUNTY, *to wit:*

This dav, Samuel Gwathmey made oath before the undersigned, a justice of said county, that the statements in the above answer are true, to the best of his knowledge and belief.

Given under my hand, this 3d day of May, 1823.

J. FERGUSON, *J. P. J. C.*

And on the same day came the defendant, George C. Gwathmey, into court, in his proper person, and filed his answer to the complainant's bill herein, which answer is as follows, to wit:

"The answer of George C. Gwathmey, to a bill and amendment, exhibited against him, &c., in the Jefferson circuit court, by John Thruston, exor. This respondent saving and reserving to himself all benefit and manner of exception, to the many uncertainties and misrepresentations in sd. original and amended bills, made and contained for answer thereto, or to so much thereof as he is advised is material for him to answer, says he knows nothing of the mortgage or debt mentioned in said bill; he has no knowledge of any property of which the said George R. Clark died seized or possessed; he knows nothing of the lands mentioned in said mortgage, and does not know or admit that any lands or other property descended to him from said George. He has no evidence of any title in his possession, of any of the lands in said bills mentioned. He denies all fraud, and prays to be dismissed, &c.

GEO. C. GWATHMEY.

JEFFERSON COUNTY, *sct:*

Personally appeared before me, George C. Gwathmey, and made oath, that the statements made in the foregoing answer are true, to the best of his knowledge and belief.

Witness my hand, this second May, 1823.
W. TOMPKINS, *J. P. J. C.*

And on the same day came the defendant, William Boothe, by William H. Boothe, his guardian ad litem, and filed his answer in this cause, which answer is in the words and figures following, to wit:

"The answer of William H. Boothe, natural guardian for his son William, to a bill and amendments exhibited against them, and in the Jefferson circuit court, by John Thruston's ex'r. These respondents saving and reserving to themselves all benefit and manner of exception, to the many uncertainties and misrepresentations, in said original and amended bills made and contained, for answer thereto, or to so much thereof as he is advised is material for him to answer, says he knows nothing of the mortgage or debt mentioned in said *debts*. He has no knowledge of any property of which the said George R. Clark died seized or possessed. He knows nothing of the lands mentioned in said mortgage, and *do* not know or admit that any lands or other property descended to his son from sd. Clark; he has no evidence of any title in his possession, of any of the lands in said bills mention. He denies all fraud, and prays to be dismissed, &c.

W. H. BOOTH, as natural guardian for his son
WILLIAM H. H. BOOTHE.

JEFFERSON COUNTY, *sct*.

This day Wm. H. Booth made oath before me, that the statements made by him in the foregoing answer are true, to the best of his knowledge, information and belief.

Witness my hand, this third day of May, 1823.
F. COSBY, *J. P. J. C.*

And on the same day came the defendants Thomas Bullitt, and Deana, his wife, and filed their answers in this case, which was sworn to by the said Thomas Bullitt, which answer is as follows, to wit:

"The joint answer of Thomas Bullitt, and Deana M., his wife, to a bill exhibited against them and others, in the Jefferson circuit court, by Edmund Taylor, executor of John Thruston, dec'd. This respondent answering, says that he knows nothing of the execution of the mortgage or debt mentioned in the bill. He knows nothing of the lands mortgaged, and did not know before the filing of this bill, that George Rogers Clark ever owned such lands. He does not know or believe that George Rogers Clark died seized of the tracts of lands of 36,000 acres each, or of any other lands. He does not admit or believe that any lands or other property descended to him from the said George R. Clark.

THOMAS BULLITT.

And at a circuit court, held as aforesaid, on the 6th day of June, in the same year, ordered that this cause be continued until the next term.

And at a circuit court held as aforesaid, on the twelfth day of June, in the same year, came the defendant, Cecelia Anderson, by her counsel, and filed her answer herein, which answer is as follows:

"The answer of Cecelia Anderson to the original and amended bills, in chancery, filed in the Jefferson circuit court against her and others, by Edmund H. Taylor, executor of John Thruston, dec'd. Your respondent answering thereto, says she knows nothing of the mortgage or debt mentioned in said bills. She does not admit or believe that George R. Clark died seized or possessed of two tracts of land of 36,000 acres each, below Tennessee river. She positively denies that any land or other property descended to her by the death of Geo. R. Clark. This respondent has no knowledge of any of the other allegations in said bills; and having fully answered, prays to be dismissed, &c. &c.

CECELIA ANDERSON.

JEFFERSON COUNTY, *Sct.*

This day, the above named Cecelia Anderson appeared personally before the undersigned, a justice of the peace in and for said county, and made oath that the above answer of facts, as stated by herself, are true; and that those received from the information of others, she believes to be true.

Given under my hand, this 6th day of June, 1823.

MINOR WHITE, *J. P. J. C.*

At a circuit court held as aforesaid, on the 16th day of October, in the same year, came the defendant, William Clark, Jr., by his counsel, and filed his answer to the complainants' original and amended bills in this cause; which answer is in the following words and figures, to wit:

The answer of William Clark to a bill in chancery, and amendments thereto, exhibited against himself, and others, in the Jefferson Circuit Court, in the State of Kentucky, by the ex'r of John Thruston, dec'd:

This respondent, saving and reserving to himself all benefit and manner of exceptions to the many erroneous statements in the said original and amended bills mentioned, in answer thereto, or so much as he is advised is material for him to answer, says, he knows nothing of the debt or mortgage mentioned in said bills, or any circumstance attending the same; that he does not at this time know of any real or personal estate of which George Rogers Clark died possessed; that he does not now, nor ever has claimed any title to any lands, or other property, descended to him from the said George Rogers Clark, to his knowledge.

This respondent has been informed, and verily believes, that a part of the land mentioned in said bills was conveyed by George Rogers Clark to William Clark, and if for any other purpose, other than the consideration mentioned in said conveyance, this respondent does not know it; that should this respondent obtain title to any of the lands mentioned in said bill, he knows of no other source from which it could be derived than by conveyance from William Clark, for a valuable consideration made to him.

He denies all fraud, combination, &c., and prays to be dismissed, &c.

WILLIAM CLARK.

LOGAN COUNTY, *Sct.*

This day, William Clark, Jr., made oath before me, Thomas S. Slaughter, a justice of the peace for said county, that the matters and things contained in the above answer, so far as is related of his own knowledge, are true; and so far as is related from the information of others, he believes to be true.

Given under my hand, this 19th September, 1823.

THO. S. SLAUGHTER, *J. P. L. C.*

At a circuit court held as aforesaid, on the twelfth day of November, in the same year, came the complainant, by his counsel, and with the leave of the court, filed a bill of revivor in this cause against Wm. H. Booth, heir and legal representative of William Booth, an infant, defendant to this suit, who has departed this life; and on the motion of the complainant, process is awarded him on the said bill against the said William H. Booth, as heir as aforesaid, returnable on the 40th day of the present term of this court; which bill is as follows, viz:

Edmund H. Taylor, sole acting executor of John Thruston, dec'd, would state, that William Boothe, one of the infant heirs and defendants in this court, instituted by him in this court, against William Clark, &c., has departed this life, under 21 years of age, and without issue; that his father, William H. Boothe, is his heir and legal representative.

He prays that this suit may be revived against him, as such heir; and he prays process against him, accordingly; and he prays, as in, &c., by his former bill, he has already prayed.

E. H. TAYLOR, *Ex'r.*

At a circuit court held as aforesaid, on the 17th day of November, in the same year, came the complainant, by his counsel; and on his motion, it is ordered, that the process to be issued on his bill of revivor against Wm. H. Booth, be made returnable to the 42d day, instead of the 40th day of the present term of this court; which subpœna issued accordingly, to wit:

The Commonwealth of Kentucky to the Sheriff of Jefferson county, greeting:

We command you to summon William H. Boothe to appear before the judge of our circuit court for the Jefferson circuit, at the court-house, in Louisville, on the 42d day of our present October term, to answer a bill of revivor in chancery in our said court, exhibited against him by Edmund H. Taylor, executor of the last will and testament of John Thruston, dec'd; and this he shall in no wise omit, under the penalty of one hundred pounds, and have then there this writ.

Witness Worden Pope, clerk of our said court, at the court-house aforesaid, the 17th day of Nov'r, 1823, and in the 32d year of the Commonwealth.

WORDEN POPE.

Came to hand the 18 November, 1823, and executed on the within named Wm. Boothe the same day.

WM. BUCKNER, *D. S.*,
For T. BUCKNER, *S. J. C.*

And at a circuit court held as aforesaid, on the 28th day of November, 1823, came the complainant, by his counsel, and by and with the leave of the court, filed an amended bill in this cause, which was sworn to by Charles M. Thruston, Esquire; which is as follows:

The amendment of Edward H. Taylor, executor of John Thruston, deceased, to a bill in chancery, exhibited by him, against the heirs of George R. Clark, dec'd, in the Jefferson circuit court:

The complainant further states, that the two tracts of land in bill mentioned, of thirty-six thousand acres each, were conveyed by said George, in his life-time, to said William Clark, his brother, upon some trust or confidence between them, or to bring Humphrey Marshall to terms, in relation to a contract between him and s'd George for said land, or to obtain a vacation thereof; and at or about the time said conveyance was made, the said William Clark declared to Worden Pope, one of the witnesses thereto, that such was the object thereof; and if there were any valuable consideration for such conveyance, which this compl't neither admits or believes, he charges and insists that said conveyance was only to stand as a security therefor, and that a bona fide sale of said lands by said George to said William was contemplated or designed by neither of them; and accordingly, since the death of said George R. Clark, the contract with said Marshall being vacated, the said William made, or at least sketched upon paper, a division of said two tracts of land among the heirs of said George R. Clark, and has either conveyed or agreed to convey the same to them, in consideration of, or in compliance with, the trust aforesaid; and if upon any other or farther consideration,

which the complainant does not admit, he charges and insists that such consideration is the payment or allowance to said William by said heirs, to or for the amount claimed by said William to be secured to him from said George by said deed, and which amount he charges and insists falls very far short of the value of said lands, and that the same are more than sufficient to pay said William such claim, and discharge this compl't's mortgage.

This complainant further states, that the said George R. Clark, conveyed to the said William Clark sundry tracts of land, in the now State of Indiania, upon a trust or confidence between them, that the same should be for the use or benefit of the said George, and he charges that the lands so conveyed were then, and are still of value, exceeding the present demand of compl't, and that during his lifetime the said George conveyed to the said William other lands in said State, to prevent or defeat a sale thereof, under a judgment against said George, in the name of one Bazadon; that such was the sole, or at least one of the objects thereof, and this complainant charges that the lands so conveyed, were then, and are still worth more than the present demand, or of any demand, which the said William ever had against s'd George. This complainant states that of the lands so conveyed to said William, by s'd George, in Indiania, as above mentioned; the said William, on or about the day of , in the year , sold one tract on the Ohio, to Fetter and Hughes, for the sum of one thousand dollars, and that Fetter and Hughes have paid therefor. And on or about the day of July, in the year 1818, sold to William C. Galt, one other tract, for four thousand five hundred dollars, and received payment thereof, and at other times and to other persons sold other tracts, and received payment to the amount of dollars. This complainant further states, that the said George in his lifetime, conveyed to the said William, one or more of the tracts mortgaged as afs'd, by said George, to this compl'ts' testator. In trust and confidence between them, that the same should be for the benefit of the said George, and that the said William has since sold and conveyed one of said tracts, to wit, the mill tract, on Indiania, for the sum of one thousand dollars, and payment has been made therefor. This complainant states, that the s'd William has not accounted for the monies received by him as aforesaid, or any part thereof, and that he stands justly indebted therefor, to the representatives of said George. He states, that the said George died intestate, and that no adm'n has been granted of his estate. This complainant states, that all the allegations af'd, are within the knowledge of all the defendants, or such of the brothers and sisters of the said George, as are alive, as he believes, and he prays that they may answer hereto, on oath, and particularly that they set forth what lands have been conveyed by said George to said William, and the true consideration, objects and trusts thereof, distinctly, specially, and fully, and that the said William set forth what sales he has made, and at what prices; and he prays that he may have such relief as he may be entitled to.

GRAYSON, &c. *for Compl'ts.*

At a circuit court, held for the Jefferson circuit, at the court-house in Louisville, on the 19th day of January, 1824. came the defendants, Isaac Clark, and Benjamin Temple and wife, by their counsel, and filed their answers to the complainants' bills, which answers are as follows, to wit:

The separate answer of Isaac Clark, to the bill and amended bills, filed in the Jefferson circuit court, by John Thruston's executor, against him, &c. This respondent saving, &c. for answer, says, that he knows nothing of the execution of the mortgage, or debt mentioned in the bill. He knows nothing of the land mortgaged, and did not know before the filing of this bill, that G. R. Clark ever owned such land. This respondent does not admit, or believe that G. R. Clark died seized or possessed of two tracts of land, of 36,000 acres each, below Tennessee river, or of any other land. He denies that any land or other property descended to him by the death of s'd G. R. Clark. This defendant has no knowledge of any of the other allegations in said bill, and having fully answered, prays to be hence dismissed, &c.

ISAAC CLARK,
DENNY & NICHOLAS, *P. D.*

JEFFERSON COUNTY—*Sct.*

This day Isaac Clark made oath before me, a justice of the peace, for the county aforesaid, that the statements made by him in the foregoing answer, are true to the best of his knowledge, information and belief.

Witness my hand, this 3d day of Jan'y, 1824.

F. COSBY, *J. P. J. C.*

The answer Benjamin Temple and Eleanor E. Temple to a bill and multifarious amendments in chancery, exhibited against themselves and others, as heirs of G. R. Clark, dec'd, in the Jefferson circuit court, by Edmund H. Taylor, ex'r of John Thruston dec'd. These respondents saving and reserving to themselves all manner of benefit and exceptions to the manifold errors, misstatements and falsehoods in said bill and amendments contained for answer to so much thereof as they are advised is material for them to answer, say they have never received the value of one cent, in real or personal property by descent or otherwise, from G. R. Clark, or Jno. H. Clark, dec'd. That they know nothing personally of any property of any description claimed by G. R. Clark. They well recollect very shortly after their arrival in Kentucky, in the spring of 1802, that the said G. R. Clark was generally said by his friends and relations, to be totally insolvent, and his brother William Clark had been seriously injured by having paid considerable sums of money, as security for said G. R. Clark. They also well remember that the said William Clark was apparently much distressed at the necessity he was under of selling his farm and place of residence, near Louisville, called

Mulberry Hill, to pay a security debt for G. R. Clark. They further say, they never heard of the debt claimed or mortgaged, referred to by the complainant, Edmund H. Taylor, until after the filing of the said bill. They are led to wonder why the said complaimant should so long quietly permit the said Wm. Clark to pocket the wealth of the said G. R. Clark, without prosecuting his testator's claim, and why the said mortgage was not recorded, viewing the reasons assigned as inconsistent and frivolous pretences. They deny all fraud, confederacy and combination, and don't believe any such exists. They have heard of the various deaths mentioned in said bill and amendments. They have not personal knowledge of the truth of any of the various allegations in said bill and amendments, save the heirship set forth, and do not admit them; prove them. They pray to be dismissed with their costs from further molestation and costs, and for such other and further relief, as to equity belongs and their case requires.

BENJAMIN TEMPLE.
ELEANOR E. TEMPLE.

KENTUCKY, *Warren County, sct.*

Personally appeared before me, William R. Payne, a justice of the peace for said county, Benjamin Temple, and made oath that the statements contained in the foregoing answer to a bill in chancery, and amendments exhibited against them in the Jefferson circuit, are true, to the best of his knowledge and belief.

WM. R. PAYNE, *J. P. W. C.*

At a circuit court held as aforesaid, on the 28th day of January, 1824, came the parties by their counsel, and on the motion of the defendants, it is ordered, that this suit be continued at their costs until the next term of this court.

Therefore, it is considered by the court, that the complainant recover of the said defendants his costs occasioned by said continuance. And on the motion of the complainant, leave is given him to retake the depositions of Humphrey Marshall, John Howard, Worden Pope, and Charles W. Thruston, to be read on the trial of this suit; provided the defendants shall have legal notice of the time when, and place where the same shall be taken. And on the further motion of the complainant, leave is given him, to take the deposition of John Logan, one of the defendants in this cause, to be read on the trial of this cause; provided the defendants shall have reasonable notice of the time when, and place where, the same shall be taken, which deposition shall be subject to all legal exceptions. And on the further motion of the complainant, a dedimus is awarded him to take the depositions of Henry Hurst and General W. Johnston and others, of the State of Indiana, to be read on the trial of this cause; provided the defendants shall have legal notice of the time when, and place where, the same shall be taken; which dedimus shall be directed to,

and may be executed by any two justices of the peace or notary public of said State.

And on the same day, came the parties by their counsel, and on the motion of the defendant, General William Clark, leave is given him to take the deposition of Fanny Fitzhugh, a defendant, to be read on the trial of this cause; provided the complainant shall have legal notice of the time when, and place where the same shall be taken; which deposition shall be subject to all legal exceptions. And on the further motion of the said Clark, leave is given him to take the deposition of Charles W. Thruston, to be used on the trial of this cause; provided the complainant shall have legal notice of the time when, and place where the same shall be taken.

At a circuit court held for the Jefferson circuit, at the court-house in Louisville, on the eighth day of March, 1824, came the defendant, General William Clark, by his counsel, and filed his answer to the complainant's amended bill in this cause; which answer is in the words and figures following, to wit:

The separate answer of William Clark, one of the defendants of the third amended bill of Edmund H. Taylor, only acting executor of the last will and testament of John Thruston, deceased, complainant's third amended bill, answereth and saith, that the true consideration for which the deed was executed from George Rogers Clark to him, the defendant, is concisely stated and expressed upon the face of said deed. In addition to the large sums of money paid by this defendant for, and on account of his deceased brother, various services had been rendered, and difficulties encountered for him, of a nature not susceptible of any precise intimation or remuneration in money, which the grantor in said deed intended thereby to compensate. This defendant again repeats, that said conveyance was not made and received, nor intended to be made or received in trust, or upon confidence of any sort, express, or implied, nor exclusively to bring Humphrey Marshall to terms in relation to a contract between him and said George for said lands, or to obtain a vacation thereof in any other manner, or by any other means than the regular prosecution of the suit, nor can the respondent discern or imagine, how else that object could have been attained, or in any degree facilitated by the conveyance from George R. Clarke to this defendant. The lands was known to be encumbered at the time, and it was the wish and intention of this defendant, to take the necessary steps to get it free therefrom, and the understanding between him and the grantor, that it should be done entirely at the expense of this defendant; and that the grantor should be held legally responsible only, so far to refund the purchase money in proportion to the quantity of land that might ultimately be lost. This defendant wished to bring Humphrey Marshall to terms, and conversed with Mr. Worden Pope on the subject, to whom he offered 1,000 acres of the land, if he would attend to the interest of this defendant, (who expected to be absent, and was absent three years,) against the claim of H. Marshall, but was not the consideration upon which the conveyance was made, nor has this respondent any recollection of having used any expressions to Mr.

Pope, or any other person that could induce a belief that the conveyance from G. R. Clark was made to him in trust, or for any such purpose as that alleged. From the time the deed was executed, he considered himself legally entitled to the premises conveyed in such manner and to such extent, as the said G. R. Clark had power, right, and authority to sell and convey the same. And shortly afterwards, on the 2d day of October, 1803, this respondent executed a deed of conveyance for a part of the premises to Mrs. Fanny Thruston, not doubting for a moment his full and entire right to do so. This respondent freely admits, that he proposed to make a division of part of the said lands between a portion of the relatives and representatives of Geo. R. Clark. That the same was a voluntary offer on his part, in consideration of the services and assistance rendered this defendant in the prosecution of his claim against H. Marshall, and from a lease of natural justice and affection, and not in pursuance of, or compliance with any express or implied trust, confidence, or other consideration.

This respondent also freely admits, that if during the lifetime of the said George R. Clark, the contract between him and the said Humphrey Marshall had been fulfilled and the money paid, he should have felt it his duty as a brother, to have retained only the amount due him at the time, together with the interest thereon and what might have been deemed a reasonable compensation for his services and trouble. But the conveyance from the said George R. Clark to this respondent was not conditional, or predicated upon any contract or agreement that this respondent should do. And this respondent again repeats and expressly avers, that at the time said conveyance was executed, it was the belief of the parties concerned and others acquainted with the transaction, that (situated and encumbered as the lands were) the consideration for which they were sold and conveyed to him was a full and ample one. This respondent further states that some time in the year 1818, a conditional contract was entered into with Col. C. S. Todd, for the disposition of the land below the Tennessee. Col. Todd for certain reasons wished to get a conveyance signed by the heirs of G. R. Clark and Mr. Worden Pope, accordingly prepared deeds for them all to execute, in which it was distinctly expressed that they *released* only such title in law or equity as they possessed, or might be supposed to possess without making themselves liable, or intending to make themselves liable, or in any way responsible for the title which was considered as vested in this respondent and passing by the conveyance from himself and wife. The contract with Col. Todd, however, never was carried into effect. Afterwards, in the year 1820, Mr. Pope prepared a deed from this respondent and wife to Humphrey Marshall, in compliance with a contract entered into between him the said H. Marshall, and this respondent, to carry into effect the original agreement between him the said H. Marshall, and the said G. R. Clark. To this last deed the heirs of G. R. Clark were not parties, nor was it believed that they possessed any title in law or equity that could make it necessary or proper for them to join in the conveyance, which had been done in the first instance purely to

gratify Col. Todd, and from a belief on their part that if it did no good it would do no harm. To the reiterated charge that the said Geo. R. Clark conveyed to the said William Clark, sundry tracts of land in the now State of Indiana, upon a trust or confidence between them, &c. Respondent has no other answer to make than that it is false, and that all the information that he has on the subject, was given in his, this defendants' answer, to the complainants original and second amended bill of complaint, and he sincerely hopes the complainant will consider this answer a sufficient traverse of the fact. The land sold Wm. P. Galt was acquired by this respondent under the will of his father. The land sold to Fetter and Hughes was never the property of George R. Clark. Though the money paid by Fetter and Hughes was applied to the use of George Rodgers Clark; without this, that *that* there is any other matter material for this respondent to answer unto in the complainant's said third amended bill not hereby and herein fully answered, traversed or denied that is true.

WM. CLARK.

STATE OF MISSOURI, *County of St. Louis.* } Circuit Court, February Term, 1824.

I, Archibald Gamble, clerk *clerk* of the circuit court, for the county of Saint Louis, do hereby certify that William Clark personally appeared in open court and made oath that the facts contained in the foregoing answer and stated of his own knowledge are true, and those facts stated upon the information of others he believes to be true.

[SEAL.] Given under my hand and seal of office at St. Louis, this 3d day of February, A. D. 1824.

ARCHIBALD GAMBLE, *Clk.*

MISSOURI, *County of St. Louis, Sct:*

I, Alexander Stuart, judge of the third judicial district in the State of Missouri, comprehending the county of St. Louis, do hereby certify that the within certificate of Archibald Gamble, clerk of the circuit court of the said county is in due and common form. Given under my hand and seal the third day of February, 1824.

ALEXANDER STUART, [SEAL.]

At a circuit court held as aforesaid on the 28th day of April, 1824, came the complainant by his counsel, and on his motion leave is given him to take the depositions of Humphrey Marshall and John J. Marshall, John Howard, Samuel T. Fitzhugh, William Tompkins, Charles W. Thruston, Worden Pope, and William C. Galt, to be read on the trial of this cause, provided the def' ts. have legal notice of the time when, and place where the same shall be taken.

And at a circuit court held as afs'd. on the 1st day of May, 1824; ordered that this cause be continued until the next term.

At which time, to wit, a circuit court held as aforesaid on the 16th day of June, in the same year, came the parties by their counsel, to

wit, the complainant and the defendant, Wm. Clark, and this cause came on for final hearing on the bills, answers, exhibits and depositions filed herein, and the same was argued in part and adjourned over for further hearing until to morrow morning. The said defendant, Willian Clark, presented three bills of exceptions numbers one, two, and three, which were signed and sealed by the court and made part of the record in this cause, and leave is given the said complainant on to-morrow, to prove the execution of the mortgage mentioned in the bill by John Howard, one of the subscribing witness thereto.

THRUSTON'S EXR. *vs.* CLARK, &c. } In chancery.

The complainant offered to read the deposition of Worden Pope, marked A; and to shew his competency the complt. read the release from said Pope attached to his deposition, marked B, and read the notice and certificate, marked C.

The defendant, William Clark, objected to the reading of said deposition, because the notice was illegal and unreasonable. Because there is no legal proof of the service of sd. notice; and because the deponent, Worden Pope, was incompetent to give testimony on account of interest, which interest he did not and could not release, so as to render him competent. The court overruled said objection, and admitted said Pope's deposition to be read in evidence, to which the said defendant, William Clark, excepts, and prays, &c. It appeared to the court that at the time notice was given to take sd. deposition, said William Clark was a non-resident of Kentucky.

JNO. P. OLDHAM. [SEAL.]

On the hearing of this cause the complt. read, as against the deft., Genl. William Clark, of Missouri, the deposition of Worden Pope, marked A. The deposition of Humphrey Marshall, marked L. The deposition of John J. Marshall, marked M. The deposition of Charles W. Thruston, and the paper attached to it, marked N. And these were all the depositions read against said William Clark on the hearing of said cause; to the reading of which said William Clark accepts, &c. No objections were taken to the reading of the depositions of John J. Marshall, Charles W. Thruston, and Humphrey Marshall.

JNO, P. OLDHAM. [SEAL.]

Be it remembered, that after the calling of this cause, and after it had been gone into, and after reading the bills, answers, and several depositions, the complt. asked leave to prove the execution of the mortgage, filed as an exhibit with his original bill, by oral testimony, at the bar, to the granting leave to do which deft. objected, but the court granted the leave to complainant to prove said exhibit on to-morrow, by oral testimony, at the bar, to which the deft. excepts, and prays this, his bill of exceptions, may be signed, sealed, &c.

It was agreed before the opening of the cause by the counsel on both sides, and the court, that the argument of the cause was not to commence until the morrow.

JNO. P. OLDHAM. [SEAL.]

And at a circuit court, continued and held as afsd., on the 17th day of June, 1824, came as well the complainant, by his counsel, as the defendant, Genl. William Clark, by his counsel; and the said Clark filed a bill of exceptions, No. four, which was signed and sealed by the court, and made part of the record in the cause.

And the argument of the counsel on both sides being concluded, and the court not being sufficiently advised of and concerning the premises, took time to consider, &c.

THRUSTON'S EXR.
vs.
CLARK, &c.

The defendant, William Clark, moved the court to suppress the depositions of J. J. Marshall, Forts Cosby, and William Tompkins, as to so far as respected sd. deft., William Clark; but the court refused, but stated that so much of the testimouy contained in said depositions as could not be legitimately used against the said Wm. Clark, would be disregarded by the court in the consideration and decision of said suit, to which deft. excepts, &c.

JNO. P. OLDHAM. [SEAL.]

And at a circuit court held for the Jefferson circuit, at the court-house, in Louisville, on the twenty-second day of November, one thousand eight hundred and twenty-four, came the parties, by their counsel; and the court being now sufficiently advised of and concerning the premises, are of opinion that the heirs of George Rogers Clark have now no title to the mortgaged premises in complainant's bill mentioned, and that the conveyance, set up by the defendant, William Clark, to the two tracts of land in said bill mentioned, one of thirty-seven thousand acres, and the other of thirty-six thousand nine hundred and sixty-two acres, both lying on the Ohio river, and patented to said George Rogers Clarke in his lifetime, by patents, bearing date the 15 September, 1795, is fraudulent, as to the creditors of said George Rogers Clarke, and, at most, can only operate as a mortgage to secure to said Wm. Clark the payment of twenty-one hundred dollars, the consideration expressed in said conveyance, with interest thereon at the rate of six per centum, from the 28th July, 1803, until payment; and that the said George Rogers Clark, in his lifetime, had an equity of redemption in said premises, and that the same has descended upon, and is now assets in the hands of said heirs for the payment of the debts of sd. George Rogers Clark. It is therefore decreed and ordered, that said lands, or so much of both or either of said tracts, be sold at public auction, in Louisville, to the highest bidder, upon a credit of two years, the purchaser giving

bond, with good security, for the payment of the purchase money, with interest, as will be sufficient to satisfy and pay the complt. the sum of five hundred and thirty-four pounds three shillings and five pence, with interest thereon at six per centum per annum from the last day of May, in the year 1804, until payment, being the debt in the complainant's bill and mortgage mentioned, and also the costs by the complt. in this suit. The sale to be made subject to the mortgage or lien of said William Clark upon said lands for the payment of the $2,100 aforesaid, with interest thereon as afsd., to him.

And it is further ordered and decreed, that Samuel Dickinson be appointed a commissioner, and unless the said sum £534 3 5, with interest thereon as afsd., and the costs afsd. be paid to the complainant on or before the first January next, that said commissioner make sale, as above directed, of the lands afsd. on such day and place, in Louisville, as he shall appoint, first advertising the time and place of sale by the space of sixty days, in some newspaper printed in Louisville afs'd, and also at the court-house door, in said town; and that he make report of his proceedings herein to the next court. From which decree the said defendants pray an appeal to the honorable the court of appeals of this State, which is granted them, upon their entering into bond with Charles W. Thruston, their security, in the clerk's office of this court, within thirty days, in the penalty of five thousand dollars, conditioned that the said defendants shall prosecute the said appeal with effect, or that on failure thereof that they shall pay to the complainant the amount of the afs'd decree, and also all damages and costs which shall or may be awarded against the said defendants by the said court of appeals, in this cause.

On the 18th day of December, 1824, the following appeal bond was executed, to wit:

"Know all men by these presents, that we, William Clark and Charles W. Thruston, are held, and firmly bound unto Edmund H. Taylor, executor of John Thruston, dec'd, in the full and just sum of five thousand dollars, current money of the United States, for the payment whereof, well and truly to be made, unto the s'd Taylor, executor, as af's'd, his heirs, executors, adm'rs, or assigns, we, and each of us, do hereby bind ouselves, our heirs, ex'rs, and adm'rs, jointly, and severally, firmly by these presents, sealed with our seals, and dated this 18th day of December, 1824.

The condition of the above obligation is such, that whereas in a suit in chancery, depending in the Jefferson circuit court, in the State of Kentucky, wherein the said Edmund A. Taylor, executor as af's'd, was compl't, and the said William Clark, and others, heirs and representatives of Gen'l George R. Clark, dec'd, were defendants, the said court, on the 22d day of November, 1824, made and recorded the following decree, in the said cause, to wit:

This day came the parties, by their counsel, and the court being now sufficiently advised of and concerning the premises, are of opinion that the heirs of George Rogers Clark have now no title to the

mortgaged premises in compl'ts bill mentioned, and that the conveyance set up by the def't, William Clark, to the two tracts of land in said bill mentioned, one of thirty-seven thousand acres, and the other of thirty-six thousand nine hundred and sixty-two acres, both lying on the Ohio river, and patented to said George Rogers Clark, in his lifetime, by patents bearing date the 15th of September, 1795, is fraudulent as to the creditors of the said George Rogers Clark, and at most, can only operate as a mortgage to secure to said William Clark the payment of twenty-one hundred dollars, the consideration expressed in the said conveyance, with interest thereon, at six per centum per annum, from the 28th July, 1803, until payment, and that the said George Rogers Clark, in his lifetime, had an equity of redemption in said premises, and that the same has descended upon, and is now assets in the hands of said heirs, for the payment of the debts of the said George Rogers Clark. It is, therefore, decreed and ordered that the said lands, or so much of both or either of said tracts be sold at public auction, in Louisville, to the highest bidder, upon a credit of two years, the purchaser giving bond with good security for the purchase money with interest, as will be sufficient to satisfy and pay complainant the sum of five hundred and thirty-four pounds three shillings and five pence, with interest thereon, at six per centum per annum, from the last day of May, in the year 1804, until payment, being the debt in the complainant's bill and mortgage mentioned, and also the costs of the complainant in this suit. The sale to be made subject to the mortgage or lien of said William Clark, upon said lands for the payment of $2,100 af's'd, with interest thereon, as af's'd, to him.

And it is further ordered and decreed, that Samuel Dickinson be appointed a commissioner, and unless the said sum of £534 3 5, with interest thereon as aforesaid, and the costs as af's'd, be paid to the complainant on or before the first January next, that said commissioner make sale, as above directed, of the lands af's'd, on such day and place in Louisville as he shall appoint, first advertising the time and place of sale, by the space of sixty days, in some newspaper printed in Louisville af's'd, and also at the court-house door, in said town, and that he make report of his proceedings herein, to the next court. From which decree, the said defendants, on the same day, prayed an appeal to the honorable the court of appeals, of the State aforesaid, which was granted them upon their entering into and giving this bond, within thirty days.

Now, therefore, in case the said William Clark and the other heirs of the said George Rogers Clark, and Charles W. Thruston, or either of them, or either of their heirs, ex'ors, or adm'rs, shall prosecute the said appeal with effect, or that on failure thereof, shall pay to the said complainant the amount of the af's'd decree, and also all damages and costs which shall or may be awarded against the said William Clark, and the other heirs of the said George Rogers Clark, dec'd, by the said court of appeals, in the cause af's'd, then the fore-

going obligation shall be void, otherwise, the same shall be and remain in full force and virtue.

Test: ROBERT TYLER, *D. C.* [SEAL.]
C. W. THRUSTON. [SEAL.]

At a circuit court, held for the Jefferson circuit, at the court-house in Louisville, on the twenty-fifth day of October, one thousand eight hundred and twenty-six. The commissioner appointed to carry into effect the decree pronounced herein, at a former term of this court, this day produced his report in court, which is examined and approved, and the court allows to said commissioner the sum of ten dollars for his services herein, which the complainant is directed to pay to him. And the clerk of this court is directed to tax said sum of ten dollars in the bill of costs against the def't; and the court now finally orders and decrees, that the compl't recover of the def'ts his costs herein, for which he may have execution.

EDMUND H. TAYLOR, ex'r of JOHN THRUSTON, dec'd, comp't.
against
WM. CLARK, WM. CROGHAN, & LUCY, his wife, OWEN GWATHMEY, &c., def'ts.
} In Chancery.

"By virtue of, and in obedience to a decree rendered by the Jefferson circuit court in the above case, the undersigned commissioner named herein, to make sale of the equity of George Rogers Clarke, in and to the mortgaged premises in the mortgage of said George Rogers Clarke to William, mentioned, advertised the aforesaid premises in the Public Advertiser, a public authorised newspaper, printed in Louisville, Ky., on the 6th day of May, 1826, subject to the payment of William Clark's debt, or as much thereof as should be sufficient to satisfy and pay the debt due the complainant, and the interest and all costs; and appointed the sale to take place before the court-house door in Louisville, (Ky.,) between the hours of 11 o'clock, A. M. and 3 o'clock, P. M, of the 10th day of July, 1826, upon a credit of two years for specie, the purchaser or purchasers giving bond and good security, with interest thereon from the sale."

"The printer's certificate, and a copy of the advertisement which was published for at least sixty days in the newspaper, and for the same time at the court-house door in said town, is hereto annexed and made a part of this report. Accordingly on the day, and between the hours aforesaid, the undersigned attended before the court house door, in the town of Louisville, and offered and cried the premises aforesaid for sale on the conditions aforesaid, when and where George Woolfolk, Esquire, became the purchaser for General William Clark, of the whole of the mortgaged premises for the debt, interest, and all costs decreed to be paid Edmund H. Taylor, executor of John Thruston, dec'd., subject to the claim of said William Clarke, one of the defendants, he being the highest and best bidder for the same, and it was accordingly cried and struck off to him. The

aforesaid Woolfolk, having produced a receipt from Charles M. Thruston, Esq., attorney for the complainant, and one of the heirs, acknowledging the payment of twenty-five hundred dollars by William Clark, as being in full for the aforesaid debt, interest, &c., no bond or note has been taken from him; which receipt is herewith filed and offered as a part of this report, all of which is respectfully submitted.

SAM'L. DICKINSON, *Com'r.*"

Commissioner's Sale.

"Edmund H. Taylor, exr. of John Thruston, dec'd., compt., against William Clark, William Croghan, and Lucy, his wife, Owen Gwathmey, John Gwathmey, Samuel Gwathmey, Geo. C. Gwathmey, Temple Gwathmey, Isaac R. Gwathmey, George Woolfolk, and Catharine, his wife, Richard C. Anderson, Jr., and Betsey, his wife, Thomas Bullitt, and Diana, his wife, Peter Priest, and Lucy, his wife, Francis Jones, Wm. H. Booth, Dennis Fitzhugh, and Frances, his wife, John Logan, and Ann, his wife, Cecelia Anderson, John H. Clark,, William Clark, Geo. W. Clark, Benjamin Temple, and Eleanor, his wife, James A. Pearce, and Ann, his wife, defendants."

"By virtue of a decree of the Jefferson circuit *circuit* court, in the above cause, the undersigned commissioner therein named, will sell on the 10th day of July, 1826, to the highest bidder, at the court house door, in Louisville, between the hours of 11 o'clock, A. M. and 3 o'clock, P. M., two tracts of land patented to Gen'l. Geo. R. Clark, one containing 37,000 acres, and the other 36,962 acres, both lying on the Ohio river, or as much of either, or both of said tracts of land, (subject to a mortgage of Gen'l. William Clark, to secure the payment of $2,100, with interest from the 28th day of July, 1803,) as will be sufficient to satisfy and pay the debt decreed to be paid with interest and all costs, upon a credit of two years, the purchaser or purchasers, to give bond and good security, with interest thereon from the date. The two tracts of land afs'd. are thus described when brought into one survey, and as mortgaged to said Gen'l. Wm. Clark. Beginning at three maples, two ashes and a buckeye, on the bank of the Ohio, at the mouth of the Tennessee river, running from thence 16 deg. west, 1280 poles, crossing a creek, to two white oaks, and three maples, standing on the bank of the creek that empties into the Ohio at the lower end of the Island, at the mouth of Tennessee, thence north, 74 deg. west, 5598 poles, crossing a fork of Massac creek at 1830 poles, another at 2340 poles, to a branch at 3000 poles, and another at 3396 poles, passing a corner five black oak saplins in the head of a hollow at 3840 poles, to a white oak and hickory by a small drain, corner to George Smith, running from thence with his line north 58 deg. west, 2166 poles, to two maples and cotton wood tree standing on the Ohio river, at the lower side of a small creek, and the fifth below

Massac, running from thence up the Ohio, binding thereon 8640 poles to the beginning. Due attendance will be given by the commissioner.

SAM'L. DICKINSON."

May 6th, 1826.

"This is to certify, that the annexed has been advertised regularly in the Louisville Public Advertiser, a public authorised newspaper, printed in Louisville weekly, from the 6th day of May, 1826, until the 10th day of July, 1826. Given under my hand as printer and publisher, this 10th day of July, 1826.

S. PENN, Jr."

"THRUSTON'S exc'r.
vs.
G. R. CLARK'S heirs." } In Ch'y.

"I acknowledge to have received of Gen'l. William Clark, twenty-five hundred dollars in full discharge of a decree in the name of Thruston's exc'r. agt. G. R. Clark's heirs, in the Jefferson circuit court. The decree is therefore satisfied, and the commissioner, Samuel Dickinson, is hereby authorised and directed to return it satisfied, without taking bond of the purchaser of the sale made on to-day, 10th July, 1826. The above sum of twenty-five hundred dollars was, by way of compromise, and was the whole amt. ever rec'd. by me on said decree. This receipt is not to operate as a discharge of the costs, they being yet to be paid by the defts.

CHS. M. THRUSTON,
Complts. Atty. and Appa.

At a circuit court held as aforesaid, on the 18th day of Novemvember, 1826, came the parties, by their counsel, and filed a bill of revivor in this cause, against William Gwathmey, Owen Gwathmey, Eleanor Gwathmey and Matilda Gwathmey, heirs of John Gwathmey, dec'd., and against Elizabeth Anderson, Arthur Anderson and Nancy Anderson, heirs of Richard C. Anderson, and Betsy Anderson his wife, dec'd.; and on the motion of the complainant, it is ordered that George C. Gwathmey be, and he is hereby appointed guardian ad litem, to Owen, Eleanor, and Matilda Gwathmey, and that he defend this suit for them; and thereupon, they, by the said Gwathmey, their guardian ad litem, as aforesaid, filed their answer to the said bill of revivor, in this cause; and it is further ordered, that the said George C. Gwathmey be, and he is hereby appointed guardian ad litem, to Elizabeth, Arthur and Nancy Anderson, and that he defend the same for them, and thereupon, they, by the said George C. Gwathmey, their guardian ad litem, as aforesaid, filed their answer to the said bill of revivor in this cause; and the defendant, William Gwathmey, filed his answer to the sd. complainant's bill of revivor, filed against him in this cause; and by consent of parties, it is ordered that this suit be, and the same is hereby revived against the said Wm.

Gwathmey, Owen Gwathmey, Eleanor Gwathmey, and Matilda Gwathmey, and against Elizabeth Anderson, Arthur Anderson, and Nancy Anderson, defts. to this suit, and may be prosecuted in the name of said complainant accordingly. The commissioner appointed to carry into effect the interlocutory decree, pronounced herein, having carried into effect said decree, and the same having been returned and filed herein, the same is now again confirmed by the court, and the court now decrees and orders, that the defts. in this suit do, on or before the 1st day of the next term of this court, convey the lands in the bill mentioned, and purchased by the sale made under said interlocutory decree, by the deft. William Clark, to him sd. Clark by deed in fee simple, conveying their title only; and on failure thereof, that Samuel Dickinson be, and he is hereby appointed, commissioner to make said conveyance for them; and the period of twelve months is given the infant defendants in this cause, after they shall attain the age of twenty-one years, to open and shew cause against this decree.

"Edmund H. Taylor, in his suit, in the Jefferson circuit court, agt. William Clark and others, heirs of G. R. Clark, would state, that since the rendition of the decree in this cause, and the sale thereunder, John Gwathmey has departed this life, and William, Owen, Eleanor, and Matilda Gwathmey are his heirs; that the said William is an adult, and the rest are infants; that Richard C. Anderson, Jr. and Betsy, his wife, two of said defts. and heirs of said G. R. Clark, have died since sd. sale under sd. decree, and that both of them died intestate, and their heirs are Elizabeth, Arthur, and Nancy Anderson, are all infants. He prays that this suit may be revived against them, and sd. infants answer this bill of revivor, by George C. Gwathmey, their guardian ad litem, and that said William answer and revived against him; and that they all answer, &c.

THRUSTON, *P. C.*

The joint answer of Owen, Eleanor, and Matilda Gwathmey, infant heirs of John Gwathmey, deceased, by George C. Gwathmey, their guardian ad litem, they answer and admit they are heirs as aforesaid; know nothing of the merits and matters of this case, and submit to the court for their protection of their rights, and having fully answered, pray to be dismissed with their costs.

OWEN GWATHMEY,
ELEANOR GWATHMEY,
and MATILDA GWATHMEY,
By their guardian ad litem,
GEO. C. GWATHMEY.

The joint answer of Elizabeth Anderson, Arthur and Nancy Anderson, heirs of Richard and Betsy Anderson, infants of tender years, by their guardian ad litem, George C. Gwathmey. They admit that they are heirs as afs'd. They submit their rights to the

court; know nothing of the matters in this suit; and having fully answered, pray to be dismissed with their costs, &c.

ELIZA. ANDERSON,
ARTHUR ANDERSON,
NANCY ANDERSON,
By guardian ad litem,
GEORGE C. GWATHMEY.

"The answer of William, the only adult heir of John Gwathmey, to a bill of revivor, filed against him and others, in the Jefferson circuit court, by Edm'd H. Taylor, exr. of John Thruston, dec'd., respt. for answer, says, that he is an heir as afs'd., is willing said suit be revived; and having answered, prays to be dismissed with his costs, &c.

WM. GWATHMEY,
By GEO. C. GWATHMEY.

At a circuit court, held for the Jefferson circuit, as aforesaid, on the 7th day of June, 1827. It appearing to the satisfaction of the court, that George Woolfolk was the purchaser of the land decreed to be sold herein, and that such appears the fact by the commissioner's report, and by an order in this cause, made at the October term, 1826, of this court, William Clark was stated to have been the purchaser of said lands, which was not the case, the court now corrects said order of October term, 1826, and confirms hereby the commissioner's report, returned herein at a former term of this court, and the court now decrees and orders, that the defendants do, on or before the 9th day of June, 1827, convey, by deeds in fee simple, their title only, to said Woolfolk, the said lands sold and purchased by him; and that on failure thereof, Samuel Dickinson be, and he is hereby appointed a commissioner to do it for them.

And at a circuit court held as aforesaid, on the 16th day of June, 1827, Samuel Dickinson, the commissioner appointed herein, produced here in court, a deed to George Woolfolk, the purchaser of the lands sold under a former decree herein from the defts., to said Woolfolk, which deed is examined and approved by the court; and said deed having been acknowledged and delivered by said Dickinson, as the act and deed of the parties thereof, the clerk of this court is directed to record said deed in the book kept by him for that purpose. And the court orders that the defendants pay to said Dickinson the sum of ten dollars, for his services, in full, for, and on account of of selling and conveying, &c.

The following notices and depositions were filed by the parties in the foregoing causes, to wit:

James A. Pearce, and Nancy, his wife, Isaac Clark, William H. Booth, Temple Gwathmey, George C. Gwathmey, and Mrs. Dianah Bullitt, Peter Priest, and Lucy, his wife, Mrs. Francis Fitzhugh, and Mrs. Lucy Croghan, George Woolfolk, and Catharine, his wife, Isaac R. Gwathmey, and Elizabeth his wife, and Mrs. Francis Jones.

Take notice, that on the first Thursday in April, 1824, at the house of Humphrey Marshall, in the town of Frankfort, Kentucky, I shall take the deposition of sd. Marshall and others, to be read as evidence in a certain suit in chancery depending, in the Jefferson circuit court, in Kentucky, in which said suit I, as executor of John Thruston, dec'd. *am* complainant, and you and others are defendants; and if not taken on that day, I shall attend at said Marshall's house on the first Friday in the same month, to take his said deposition and others; and on the first Saturday in the same month, at the tavern of Daniel Weisiger, in the said town of Frankfort, I shall take the deposition of John H. Todd and others, to be read as evidence in the suit aforesaid; and on the third Thursday in the same month, at the office of Charles M. Thruston, in —— town of Louisville, Kentucky, I shall take the deposition of Henry Hurst, ——— Oliver, William C. Galt, James Hughes and others, to be read as evidence in the suit aforesaid; and I shall continue at the last mentioned place from day to day, Sundays excepted, until said depositions are taken.

Respy., &c.,
EDM'D. H. TAYLOR, *Exor. of*
JNO. THRUSTON, dec'd.

Feb'y. 21st, 1824.

I acknowledge to have rec'd a copy of this notice for myself and wife, March 31st, 1824.

GEO. WOOLFOLK,
CATH. WOOLFOLK.
FRANCIS M. JONES.

I acknowledge to have received a copy of this notice for myself and wife, March 31st 1824.

ISAAC R. GWATHMEY,
ELIZABETH C. GWATHMEY.

Personally appeared before the undersigned, a justice of the peace for the county of Franklin, Commonwealth of Kentucky, Robert Todd, R. S., who made oath that he did, on the 31st day of March, 1824, before 8 o'clock A. M., deliver a true copy of the within notice to the persons whose names are affixed to the above receipts, or acknowledgements. April 2d, 1824.

J. SWIGERT, *J. P.*

Samuel Gwathmey, Esq.:

Take notice, that on the 29th day of this month, at the mansion-house, in the town of Frankfort, Kentucky, I shall take the deposition of Col. Charles S. Todd, and others, to be read as evidence in a certain suit in chancery depending in the Jefferson circuit court, in which suit I, as ex'r of John Thruston, dec'd, am compl't, and you and others are defendants; and I shall continue at the last mentioned place, Sundays excepted, until said depositions are taken; and on

the 3d day of June, 1824, at the office of Thruston and Richardson, in the town of Louisville, Kentucky, I shall take the deposition of John Howard, and others, to be read as evidence in the suit aforesaid; and I shall continue at the same place from day to day, Sundays excepted, until said depositions are taken.

Yours, &c.,
EDMUND H. TAYLOR, *Ex'r*
of JNO. THRUSTON, dec'd.

May 21, 1824.

I acknowledge service, May 21st, 1824.

S. GWATHMEY.

George Woolfolk, Esq., and Catharine, his wife, Richard C. Anderson, Jr., Elizabeth, his wife, and George C. Gwathmey, John Logan, and Nancy, his wife, and Thomas Bullitt and Dianah, his wife:

Take notice, that on the 3d day of June next, at the house of Humphrey Marshall, in the town of Frankfort, Kentucky, I shall take the deposition of s'd Marshall, and others, to be read as evidence in a certain suit in chancery depending in the Jefferson circuit court, in which I, as executor of John Thruston, deceased, am compl't, and you and others are def'ts; and also take notice, that on the 6th day of the same month, 1823, at the office of Thruston and Hawes, in Louisville, Kentucky, I shall take the deposition of Worden Pope, and others, to be read as evidence in the suit aforesaid.

Yours, &c.,
SAM'L H. TAYLOR, *Ex'r*
of JNO. THRUSTON, dec'd.

I acknowledge the service of the above, for myself and wife, March 31st, 1823.

GEO. WOOLFOLK.

I acknowledge the service of the within notice, for myself and wife, March 31st, 1823.

JOHN LOGAN.

I acknowledge the service of the within notice, March 31st, 1823.

GEO. C. GWATHMEY.

I acknowledge the service of the within notice, for myself and wife, March 31, 1823.

THO. BULLITT.

I acknowledge the service of the within notice, for myself and wife, March 31st, 1823.

R. C. ANDERSON, Jr., & WIFE.

Miss Cecilia Anderson:

Take notice, that on the 3d day of June, 1823, at the house of Humphrey Marshall, Esq., in the town of Frankfort, Kentucky, I shall take the deposition of said Marshall and others, to be read as evidence in a suit in chancery depending in the Jefferson circuit court, in which said suit I, as ex'r of John Thruston, deceased, am complainant, and you and others are defendants. And also take notice, that on the 6th day of the same month, at the office of Thruston & Hawes, in Louisville, Kentucky, I shall take the deposition of Worden Pope and others, to be read as evidence in the suit afs'd.

Respectfully, &c.,

EDMUND H. TAYLOR, *Ex'r of* JOHN THRUSTON, dec'd.

May 31st, 1823.

JEFFERSON, COUNTY, &c.

This day, Andrew Brentlinger made oath, before me, that on the 31st day of May, 1823, he delivered a true copy of the within notice to the within named Cecelia Anderson.

Witness my hand, this 2d day of June, 1823.

F. COSBY, *J. P. J. C.*

James A. Pearce, and Nancy, his wife, Isaac Clark, William H. Booth, Temple Gwathmey, Geo. C. Gwathmey, Mrs. Dianah Bullitt, Peter Priest, and Lucy, his wife, Mrs. Fanny Fitzhugh, and Mrs. Lucy Croghan, and John Logan, and Nancy, his wife:

Take notice, that on the first Thursday in April, 1824, at the house of Humphrey Marshall, in the town of Frankfort, Kentucky, I shall take the deposition of s'd Humphrey, and others, to be read as evidence in a certain suit in chancery in the Jefferson circuit court, in Kentucky, in which suit I, as ex'r of John Thruston, dec'd, am complainant, and you and others are def'ts; and if not taken on that day, I shall attend at said Marshall's house on the 1st Friday in the same month, to take his said deposition, and others; and on the first Saturday in the same month, at the tavern of Daniel Weisiger, in the s'd town of Frankfort, I shall take the deposition of John H. Todd, and others, to be read as evidence in the suit afs'd; and on the third Thursday in the same month, at the office of Charles M. Thruston, in the town of Louisville, Kentucky, I shall take the deposition of Henry Hurst, Oliver, William C. Galt, James Hughes, and others, to be read as evidence in the suit afs'd; and I shall continue at the last mentioned place, Sundays excepted, until said depositions are taken.

Respectfully, &c.,

EDMUND H. TAYLOR,
Ex'r of John Thruston, dec'd.

Feb'y 21st, 1824.

I acknowledge to have rec'd a true copy of this notice, for myself and wife, Nancy Logan, March 26, 1824.

JOHN LOGAN.

Temple Gwathmey, Peter Priest, and Lucy, his wife, and Mrs. Frances Jones, and Mrs. Frances Fitzhugh, and Samuel Gwathmey:

Take notice, that on the 3d day of June next, at the house of Humphrey Marshall, in the town of Frankfort, Kentucky, I shall take the deposition of said Marshall, and others, to be read as evidence in a certain suit in chancery depending in the Jefferson circuit court, in which I, as ex'r of John Thruston, dec'd, am compl't, and you and others are defendants. And also take notice, that on the sixth day of the same month, (1823,) I shall, at the office of Thruston & Hawes, in Louisville, Kentucky, take the deposition of Worden Pope, and others, to be read as evidence in the suit afs'd.

March 31st, 1823.

EDMUND H. TAYLOR,
Ex'r of Jno. Thruston, deceased.

I acknowledge the service of this notice.

SAM'L GWATHMEY.

April 4th, 1823.

James A. Pearce, and Nancy, his wife, Isaac Clark, Wm. H. Booth, Temple Gwathmey, George C. Gwathmey, Mrs. Dianah Bullitt, Peter Priest, and Lucy, his wife, Mrs. Fanny Fitzhugh, and Mrs. Lucy, *his* Croghan:

Take notice, that on the 1st Thursday in Ap'l, 1824, at the house of Humphrey Marshall, in the town of Frankfort, Kentucky, I shall take the deposition of said Marshall, and others, to be read as evidence in a certain suit in chancery depending in the Jefferson circuit court, in Kentucky, in which I, as ex'r of John Thruston, dec'd, am complainant, and you and others are defendauts; and if not taken on that day, I shall attend at said Marshall's house on the first Friday in the same month, to take his said deposition, and others, and on the first Saturday in the same month, at the tavern of Daniel Weisiger, in the said town of Frankfort, I shall take deposition of John H. Todd, and others, to be read as evidence in the suit aforesaid; and on the third Thursday in the same month, at the office of Charles M. Thruston, in the town of Frankfort, Kentucky, I shall take the deposition of Henry Hurst, Oliver, Wm. C. Galt, James Hughes, and others, to be read as evidence in the suit afs'd; and I shall continue at the last mentioned place, Sundays excepted, until said depositions are taken.

Respectfully, &c.,

EDMUND H. TAYLOR,
Ex'r of Jno. Thruston, dec'd.

February 21, 1824.

I hereby acknowledge to have rec'd a true copy of this notice, one myself and one for my wife, Nancy Pearce.

JAMES A. PEARCE.

MARCH 26th, 1824.

Mr. Isaac Clark, in his own right and as administrator of John H. Clark deceased, take notice that on the 3d day of June next, at the house of Humphrey Marshall, in the town of Frankfort, Kentucky. I shall take the deposition of said Marshall and others, to be read as evidence in a certain suit, in chancery depending, in the Jefferson circuit court, which I, as ex'r of John Thruston, dec'd, am complainant, and you and others are defendants. And also take notice, that on the 6th day of the same month, (1823,) at the office of Thruston and Hawes, in Louisville, Kentucky, I thall take the deposition of Worden Pope and others, to be read as evidence in the suit afs'd.

Respectfully, &c.

EDMUND H. TAYLOR,
Ex'r of Jno. Thruston, deceased.

MARCH 31st, 1823.

Came to hand 14 April, 1823, and executed the same day, by delivering to Isaac Clark a true copy of the within notice.

WILLIAM BUCKNER, *D. S.*
For T. BUCKNER, *S. J. C.*

James A. Pearce, and Nancy his wife, Isaac Clark, William H. Booth, Temple Gwathmey, Geo. C. Gwathmey, Mrs. Dianah Bullitt, Peter Priest, Lucy, his wife, Mrs. Francis Fitzhugh, and Mrs. Lucy Croghan.

Take notice that on the 1st Thursday in April, 1834, at the house of Humphrey Marshall, in the town of Frankfort, Kentucky, I shall take the deposition of said Humphrey and others, to be read as evidence in a certain suit, in chancery depending, in the Jefferson circuit court, in Kentucky, in which suit, I, as ex'r of John Thruston, dec'd am complainant, and you and others are defendants, and if not taken on that day, I shall attend at said Marshall's house, on the 1st Friday in the same month, to take his said deposition and others, and on the first Saturday in the same month, at the tavern of Daniel Weisiger, in the said town of Frankfort, I shall take the deposition of John H. Todd and others, to be read as evidence in the suit afs'd; and on the third Thursday, in the same month, at the office of Charles M. Thruston, in the town of Louisville, Kentucky, I shall take the deposition of Henry Hurst, —— Oliver, William C. Galt, James Hughes, and others, to be read as evidence in the suit afs'd, and I shall continue at the last mentioned place, (Sundays excepted,) until said depositions are taken.

Respectfully, &c.

EDMUND H. TAYLOR,
Ex'r of John Thruston, deceased.

FEBRUARY 21, 1824.

Executed on Mrs. Lucy Priest, by delivering her a true copy of the within notice, this 26th March, 1824; and I did at the same place, and at the same time, leave with Mrs. Lucy Priest a true—— of the within notice, and directed her to deliver it to her husband, Peter Priest; he, said Priest, being from home.

IRA PARKS, *C. J. C.*

JOHN GWATHMEY, Esq.

Take notice that on the 3d day of June, 1823, at the house of Humphrey Marshall, Esq., in the town of Frankfort, Kentucky, I shall take the deposition of said Marshall and others, to be read as evidence, in a certain suit, in chancery depending, in the Jefferson circuit court, in which said suit, I, as ex'r of John Thruston, deceased, am complainant, and you and others are defendants. And also take notice, that on the 6th day of the same month, at the office of Thruston and Hawes, in Louisville, Kentucky, I shall take the deposition of Worden Pope and others, to be read as evidence in the suit afs'd.

Yours respectfully, &c.
EDMUND H. TAYLOR,
Ex'r of John Thruston, deceased.

MAY 8th, 1823.

Mr. Massie is furnished with a copy of the above, which he will please deliver to Mr. Gwathmey, in person, immediately on arriving at New Orleans, not exceeding the 19th of May. If Mr. Gwathmey is not at home, leave it with some, which member of his family over 16 years of age, and inform them of the contents of it; Mr. Massie will keep this copy and note on the back of it, the day he delivers the other, so that he may prove the service of it on his return. I need scarcely to add, that this business is of great importance to me personally.

C. M. T.

I delivered a copy of the within noticc to John Gwathmey, on the nineteenth day of May, 1823, at his residence on the Bayou.

ROB. MASSIE.

This day Robert Massie, came in his proper—— before the undersigned, a justice of the peace, for Jefferson county, and made oath that on the 19 May, 1823, he delivered a true copy of the within notice, to John Gwathmey.

J. FERGUSON, *J. P. J. C.*

JUNE 12, 1823.

To James A. Pearce, and Nancy, his wife, Isaac Clark, William H. Booth, Temple Gwathmey, George C. Gwathmey, Mrs. Dianah Bullitt, Peter Priest, and Lucy, his wife, Mrs. Fanny Fitzhugh, and Mrs. Lucy Croghan:

Take notice, that on the 1st Thursday in April, 1824, at the house

of Humphrey Marshall, in the town of Frankfort, Kentucky, I shall take the depositions of said Marshall, and others, to be read as evidence, in a certain suit, in chancery depending, in the Jefferson circuit court, in Kentucky, in which suit, I, as ex'r of John Thruston dec'd am complainant, and you and others are defendants; and if not taken on that day, I shall attend at said Marshall's house, on the 1st Friday in the same month, to take his said deposition and others, and on the 1st Saturday in the same month, I shall at the tavern of Daniel Weisiger, in the said town of Frankfort, take the deposition of John H. Todd and others, to be read as evidence in the suit afs'd, and on the third Thursday in the same month, at the office of Charles M. Thruston, in Louisville, Kentucky, I shall take the deposition of Henry Hurst, —— Oliver, William C. Galt, James Hughes and others, to be read as evidence in the suit afs'd, and I shall continue at the last mentioned place, from day to day, (Sundays excepted,) until said depositions are taken.

Respectfully,
EDMUND H. TAYLOR,
Ex'r of John Thruston Deceased.

FEBRUARY, 24th, 1824.

Executed by delivering a true copy of the within notice to the within named Mrs. Fanny Fitzhugh, 24 March, 1824.
IRA PARKS, *C. J. C.*

Executed as to Mrs. Dianah Bullitt, by delivering to Mr. Owen Gwathmey, a member of her family, who is over 16 years old, a true copy of this notice, and at her residence, the said Mrs. Bullitt, refusing to be seen and refusing to take the said copy, this 24th March, 1824.
IRA PARKS, *C. J. C.*

I acknowledge to have received a true copy of this notice, this 26th March, 1824.
GEO. C. GWATHMEY.

William Clark, Esq., Isaac Gwathmey, and Elizabeth, his wife, and William Clark.

Take notice, that on the third day of June, 1823, at the house of Humphrey Marshall, Esq., in the town of Frankfort, Kentucky, I shall take the deposition of said Marshall, and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which I, as executor of John Thruston, deceased, am compl't, and you and others are defendants; and take notice also, that on the 6th day of the same month, 1823, at the office of Thruston and Hawes, in Louisville, Kentucky, I shall take the deposition of Worden Pope, and others, to be read as evidence in the suit aforesaid. Yours, &c.
EDMUND H. TAYLOR,
Ex'r Jno. Thruston, (deceased.)

I acknowledge the service of the above for myself and wife, March, 31st, 1823.

W. CLARK.

I acknowledge the service of the above, March 31st, 1823.

ISAAC R. GWATHMEY,
For himself and wife.

William Clark, Esq., James A. Pearce, Nancy, his wife, and Temple Gwathmey.

Take notice, that on the third day of June, 1823, at the house of Humphrey Marshall, Esq., in the town of Frankfort, Kentucky, I shall take the deposition of said Marshall, and others, to be read in evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which I, as ex'r of John Thruston, deceased, am complainant, and you and others are defendants; and take notice also, that on the sixth day of the same month, (1823,) at the office of Thruston and Hawes, in Louisville, Kentucky, I shall the deposition of Worden Pope, and others, to be read as evidence in suit af's'd.

Yours, &c.

EDMUND H. TAYLOR,
Ex'r of John Thruston, dec'd.

I acknowledge the service of the above for myself and wife, March 31st 1823.

JAMES A. PEARCE.

I acknowledge the service of the within, May 30th, 1823.

TEMPLE GWATHMEY.

Temple Gwathmey, Peter Priest, and Lucy, his wife, Mrs. Frances Jones, and Mrs. Frances Fitzhugh.

Take notice, that on the 3d day of June next, at the house of Humphrey Marshall, in the town of Frankfort, I shall take the deposition s'd Marshall, and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which I, as ex'r of John Thruston, dec'd, am complainant, and you and others are defendants; and also take notice, that on the 6th day of the same month, (1823,) I shall, at the office of Thruston and Hawes, in Louisville, Kentucky, take the deposition of Worden Pope, and others, to be read as evidence in the suit aforesaid, March 11, 1823.

EDMUND H. TAYLOR,
Ex'r of John Thruston, dec'd.

Came to hand April 16th, 1823, and executed same day, by de-

livering to Peter Priest, and Lucy, his wife, Mrs. Frances Fitzhugh, and Mrs. Fanny Jones, true copy of this notice, April 16th, 1823.

MILTON BUCKNER, *D. S.*
for T. BUCKNER, *S. J. C.*

MR. GEORGE CLARKE.

Take notice, that on the 3d day of June next, at the house of Humphrey Marshall, Esq., in the town of Frankfort, Kentucky, I shall the deposition of s'd Marshall, and others, to be read as evidence in a suit in chancery, depending in the Jefferson circuit court, in which I, as ex'r of John Thurston, dec'd, am complainant, and you and others, are defendants; and also take notice, that on the 6th day of June next, at the office of Thruston & Hawes, in the town of Louisville, Kentucky, I shall take the deposition of Worden Pope, and others, to be read as evidence in the suit aforesaid.

Y'rs, respectfully, &c.,
EDMUND H. TAYLOR,
Ex'r of John Thruston, deceased.

Executed, April 5th, 1823, by the delivery of a true copy of the within notice to George W. Clark.

J. C. RICHARDSON, Jr., *S. F. C.*

BENJAMIN TEMPLE, and ELEANOR, his wife.

Take notice, that on the 28th day of May, 1824, at the house of Humphrey Marshall, in the town of Frankfort, Kentucky, I shall take his, s'd Marshall's, deposition, and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which said suit, I, as executor of John Thruston, dec'd, am complainant, and you and others, are defendants; and, on the next day, at the Mansion-House tavern, in the town of Frankfort, I shall take the deposition of Charles S. Todd, and others, to be read as evidence in the suit aforesaid, and I shall continue at the last mentioned place, from day to day, (Sundays excepted,) until said depositions are taken, and on the 3d day of June, 1824, at the office of Thruston, and Richardson, in Louisville, Kentucky, I shall take the deposition of John Howard, and others, to be read as evidence in the suit af's'd, and I shall continue at the last mentioned place, from day to day, (Sundays excepted,) until said depositions are taken. May 6th, 1824.

Y'rs, &c.,
EDMUND H. TAYLOR,
Ex'r of John Thruston, deceased.

I acknowledge that Sam'l Owens, D. S. for D. W. Poor, S. L. C., delivered to me two copies of the above notice, one for me, and the other for my wife, 12th day of May, 1824.

BENJA. TEMPLE.

Executed by delivering Mr. Benjamin Temple a copy of the within notice to him, and also one copy for his wife, which he has acknowledged on the within notice, May the 12th, 1824.

SAM'L OWENS, *D. S.*
for D. W. POOR, *S. L. C.*

MRS. LUCY CROGHAN:

Take notice, that on the 3d day of June next, at the house of Humphrey Marshall, Esq., in the town of Frankfort, Kentucky, I shall take the deposition of said Marshall and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which I, as ex'r of John Thruston, deceased, am complainant, and you and others are defendants; and also take notice, that on the 6th day of the same month, (1823,) at the office of Thruston and Hawes, in Louisville, Kentucky, I shall take the deposition of Worden Pope and others, to be read as evidence in the suit aforesaid.

Resp'y, &c.,

EDMD. H. TAYLOR,
Ex'r of Jno. Thruston, dec'd.

March 31st, 1823.

Came to hand the tenth of April, 1823, and delivered a true copy of the within notice to Lucy Croghan, the same day.

MILTON BUCKNER, *D. S.*
For THOS. BUCKNER, *S. J. C.*

TO WILLIAM CLARK and JOHN GWATHMEY:

Take notice, that on the 3d day of June next, at the house of Humphrey Marshall, Esq., in the town of Frankfort, Kentucky, I shall take the deposition of said Marshall and others, to be read as evidence in a certain suit in chancery depending, and undetermined, in the Jefferson circuit court, in which I, as executor of John Thruston, am complt., and you and others are defendants; and also take notice, that on the sixth day of the same month, at the office of Thruston and Hawes, in Louisville, Kentucky, I shall take the deposition of Worden Pope and others, to be read as evidence in the suit aforesaid.

Yours, &c.,

EDMUND H. TAYLOR,
Executor of John Thruston, dec'd..

April 23d, 1823.

JEFFERSON COUNTY, *ss.*

This day Sharach Penn, jr., as editor and publisher of the Louisville Public Advertiser, came personally before the undersigned, and made oath that the annexed notice for taking the deposition of H.

Marshall and Worden Pope, was published four weeks (weekly) in the newspaper afs., commencing on the 23d April, 1823, and ending in May following.

Given under my hand at Louisville, the 14th June, 1824.

MATTHEW LOVE, *J. P. J. C.*

Temple Gwathmey, Peter Priest and Lucy, his wife, and Mrs. Frances Jones, and Mrs. Frances Fitzhugh, and H. H. Booth, by his guardian ad litem, William H. Booth.

Take notice, that on the 3d day of June next, at the house of Humphrey Marshall, in the town of Frankfort, Kentucky, I shall take the deposition of said Marshall and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which I, as executor of John Thruston, deceased, am complainant, and you and others are defendants; and also take notice, that on the sixth day of the same month, (1823,) I shall, at the office of Thruston and Hawes, in Louisville, Kentucky, take the deposition of Worden Pope and others, to be read as evidence in the suit aforesaid.

EDMUND H. TAYLOR,
Ex'r of John Thruston, Deceased.

March 31st, 1823.

I acknowledge the service of a copy of this notice for H. H. Booth, as his father and guardian ad litem, in the within named suit.

W. H. BOOTH.

April 8th, 1823. (1823.)

To WILLIAM CLARK and JOHN GWATHMEY:

Take notice, that on the 3d day of June next, at the house of Humphrey Marshall, Esq., in town of Frankfort, Kentucky, I shall take the deposition of said Marshall and others, to be read as evidence in a certain suit in chancery, depending and undetermined, in the Jefferson circuit court, in which I, as executor of John Thruston, am complainant, and you and others are defts.; and also take notice, that on the sixth day of the same month, at the office of Thruston and Hawes, in Louisville, Kentucky, I shall take the deposition of WordenPope and others, to be read as evidence in the suit aforesaid.

Yours, &c.,

EDMUND H. TAYLOR,
Executor of John Thruston, deceased.

April 23d, 1823.

This is to certify that the annexed notice for taking the depositions of Humphrey Marshall and others, has been published four weeks in the Louisville Public Advertiser, commencing on the 23d April, and ending on the 23 May, 1823.

Given under my hand this 26th June, 1823.

S. PENN, Jr.
Printer and Publisher.

To Genl. William Clark, Doct. William Clark, John Gwathmey Samuel Gwathmey, Richard C. Anderson, jr., and Elizabeth, his wife.

Take notice, that on the 14th January next, at the Mansion-House tavern, in the town of Frankfort, Kentucky, kept by Col. Richard Taylor, I shall take the depositions of Humphrey Marshall, Esq., and others, to be read as evidence in a certain suit in chancery depending in the Jefferson circuit court, in Kentucky, where I am complainant, as executor of John Thruston, dec'd, and you and others are defendants; and also take notice, that I shall continue, from day to day. (Sundays excepted,) at the same place, until said depositions are taken; and also take notice, that on the 17th day of the same month, (1824,) I shall, at the tavern of Archibald Allen, in Louisville, Kentucky, take the deposition of John Howard, James Hughes, Owen Gwathmey, Col. Richard C. Anderson, and others, to be read as evidence in the suit aforesaid; and I shall continue, at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

Respectfully, &c.,
EDMUND H. TAYLOR
Ex'r of John Thruston, dec'd.

Dec. 2d.

STATE OF KENTUCKY, *Jefferson County, sct.*

This day, came Brooke Hill, one of the late publishers and proprietors of the Morning Post, a legally authorized newspaper, and made oath that the notice hereto annexed was published in said Morning Post, for four weeks, commencing on the 2d December, 1823.

Given under my hand and seal this 12th day of June, 1824.

WM. FIELD, [SEAL.]
Justice of the Peace in and for Jefferson County.

Gen'l William Clark, or Messrs. Denny and Nicholas, his attorneys at law:

Take notice, that on the 14th day of the present month, (January,) at the Mansion-House tavern, in the town of Frankfort, Kentucky, I shall take the depositions of Humphrey Marshall and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which suit, I, as executor of John Thruston, dec'd, am complainant, and you and others are defendants, and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken; and also take notice, that on the 17th

day of the same month, at the tavern of Archabald Allen, in the town of Louisville, Kentucky, I shall take the deposition of John Howard, James Hughes, Owen Gwathmey, Colo. Richard C. Anderson, and others, to be read as evidence in the suit aforesaid. And I shall continue at the same place, from to day, (Sundays excepted,) until said depositions are taken.

Resp'y, &c., EDMUND H. TAYLOR,
Ex'r of John Thruston, dec'd.

January 6, 1824.

10th January, 1834.

Rec'd a copy of this notice.

DENNY & NICHOLAS,
Atto. for Wm. Clark.

GEORGE WOOLFOLK, and CATHARINE, his wife:

Take notice, that on the 14th day of January next, at the Mansion-House tavern, in the town of Frankfort, Kentucky, I shall take the deposition of Humphrey Marshall, Esq., and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which I, as executor of Jno. Thruston, dec'd, am complainant, and you and others are defendants; and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken; and also take notice, that on the 17th day of the same month, at the tavern of Archabald Allen, in Louisville, Kentucky, I shall take the deposition of John Howard, James Hughes, Owen Gwathmey, and Col. Rich'd C. Anderson, and others, to be read as evidence in the suit afs'd; and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

Resp'y, &c.,
EDMUND H. TAYLOR,
Ex'r of John Thruston, deceased.

A copy of this notice was this day presented to us.
G. WOOLFOLK,
C. T. WOOLFOLK.

Dec'r, 1823.

MISS CECILIA ANDERSON:

Take notice, that on the 14th day of this month, at the Mansion-House tavern, in the town of Frankfort, Kentucky, I shall take the depositions of Humphrey Marshall and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which suit I, as executor of John Thruston, deceased, am complainant, and you and others are defendants; and I shall continue at the same place, from day to day, (Sundays excepted,) until said deposi-

tions are taken; and also take notice, that on the 17th day of the same month, at the tavern of Archabald Allen, in Louisville, Kentucky, I shall take the depositions of John Howard, James Hughes, Owen Gwathmey, Col. Richard C. Anderson, and others, to be read as evidence in the suit afs'd; and I shall continue, from to day, (Sundays excepted,) at the same place, until said depositions are taken.

Resp'y, &c., EDMUND H. TAYLOR,
Ex'r of John Thruston, dec'd.

Delivered a copy on the 8th January, 1834.

JANUARY 8*th*, 1824.

JEFFERSON COUNTY, *Sct:*

This day Alex. M. Fontaine came in his proper —— before the undersigned, a justice of the peace for the county ——— made oath that on the 8th day of January, 1824, he delivered to Col. Richard C. Anderson, for Miss Cicilia Anderson, with whom she lives and at his house, a true copy of this notice. Given under my hand as justice of the peace for the afs'd., this 10th Jan'ry., 1824.

WM. FIELD, *J. P. J. C.*

JOHN LOGAN, and NANCY, his wife.

Take notice, that on the 14th of January next, at the Mansion-house tavern in the town of Frankfort, Kentucky, I shall take the deposition of Humphrey Marshall, Esq. and others, to read as evidence, in a certain suit in chancery depending in the Jefferson circuit court, in which I, as executor of John Thruston, dec'd. am complainant and you and others are defendants; and also take notice that I shall continue at the same place from day to day, (Sundays excepted,) until said depositions are taken; and also take notice that on the 17th day of the same month, at the tavern of Archibald Allen, in Louisville, Kentucky, I shall take the depositions of John Howard, James Hughes, Owen Gwathmey, Colo. Richard C. Anderson and others, to be read as evidence in the suit afs'd., and I shall continue at the same place from day to day, (Sundays excepted,) until said depositions are taken.

Respectfully, &c.
EDMUND H. TAYLOR, Exe'r.
of John Thruston, dec'd.

I acknowledge the service of the above for myself and wife. Dec. 25th, 1823. John Logan, Isaac R. Gwathmey and Elizabeth, his wife, and George C. Gwathmey.

Take notice, that on the 14th day of January next, at the Mansion-house tavern in Frankfort, Kentucky, I shall take the deposition of Humphrey Marshall, Esq. and others, to be read as evidence in a suit in chancery depending in the Jefferson circuit court, in which I, as executor of John Thruston, deceased, am complainant, and you and others are defendants, and I continue at the same place from day to

day, (Sundays excepted,) until said depositions are taken; and on the 17th day of the same month, at the tavern of Archibald Allen, in the town of Louisville, Kentucky, I shall take the deposition of John Howard, James Hughes, Owen Gwathmey and Col. Richard C. Anderson and others, to be read as evidence in the suit afs'd., and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

Resp'y, &c.
EDMUND H. TAYLOR, Exe'r.
of John Thruston, dec'd.

I acknowledge the service of the within notice for myself and wife, Dec. 26th, 1823.

ISAAC R. GWATHMEY.

I acknowledge the reception and service of a copy of the within notice, Dec. 26th, 1823.

GEO. C. GWATHMEY.

GEORGE C. GWATHMEY, Esq.

Take notice, that on the 14th day of the present month, at the Mansion-house tavern, in the town of Frankfort, Kentucky, I shall take depositions of Humphrey Marshall and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which suit I, as executor of John Thruston, deceased, am complainant, and you and others are defendants, and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken; and also take notice that on the 17th day of the same month, at the tavern of Archibald Allen, in the town of Louisville, Kentucky, I shall take the depositions of John Howard, James Hughes, Owen Gwathmey, Col. Richard C. Anderson and others, to be read as evidence in the suit aforesaid, and I shall continue at the same place from day to day (Sundays excepted) until said depositions are taken.

Resp'y, &c.
EDMUND H. TAYLOR, Exe'r.
of John Thruston, deceased.

JANUARY 8, 1824.

I acknowledge to have received a copy of the notice January 9th, 1824.

GEO. C. GWATHMEY.

MRS. LUCY CROGHAN.

Take notice, that on the 14th day of January, instant, at the Mansion-house tavern in the town of Frankfort, Kentucky, I shall take the deposition of Humphrey Marshall and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court,

in which said suit, I, as executor of John Thruston, dec'd, am complainant, and you and others are defendants, and I shall continue at the same place from day to day,(Sundays excepted,)until said depositions are taken; and also take notice that on the 17th day of the same month, at the the tavern of Archibald Allen, in the town of Louisville, Kentucky, I shall take the depositions of John Howard, James Hewes, Owen Gwathmey, Col. Rich'd C. Anderson and others, to be read as evidence in the suit afs'd, and I shall continue at the same place from day to day, (Sundays excepted,) until said depositions are taken.

Resp'y, &c.
EDMUND H. TAYLOR, Exe'r.
of John Thruston, deceased.

JANUARY 6th, 1824.

Delivered a copy on the 8th, January, 1824.

JEFFERSON COUNTY, *Sct:*

This day Alexander M. Fountaine, came in his proper person before the undersigned, a justice of the peace, for the aforesaid county, and made oath that on the 8th of January, 1824, at the residence of Mrs. Lucy Croghan, he delivered to her for Mr. John Croghan, a member of her family, and over 16 years of age, a true copy of this notice. Given under my hand this 10th January, 1824.

WM. FIELD, *J. P. J. C.*

MRS. FRANCES FITZHUGH:

Take notice, that on the 14th instant, at the Mansion-house tavern, in the town of Frankfort, Kentucky, I shall take the deposition of Humphrey Marshall, Esq., and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which s'd suit, I, as executor of John Thruston, deceased, am complainant, and you and others are defendants; and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

And also take notice, that on the 17th day of the same month, at the tavern of Archibald Allen, in the town of Louisville, Kentucky, I shall take the depositions of John Howard, James Hughes, Owen Gwathmey, Col. Richard C. Anderson, and others, to be read as evidence in the suit aforesaid; and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

Resp'y, &c.

EDMUND H. TAYLOR,
Ex'r of John Thruston, Dec'd.

A. M. FONTAINE.
January 5th, 1824.

JEFFERSON COUNTY:

Alexander M. Fontaine came, in his proper person, before the undersigned, a justice of the peace for the county aforesaid, and made oath, that on this day he delivered to Mrs. F. Fitzhugh a true copy of the within notice.

Given under my hand, this 10th January, 1824.

WM. FIELD, *J. P. J. C.*

Mrs. Frances Jones, and William H. Booth, James A. Pearce, and Nancy, his wife, and Isaac Clark.

Take notice, that on the 14th day of the present month, at the Mansion-house tavern, in the town of Frankfort, Kentucky, I shall take the deposition of Humphrey Marshall, and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which said suit, I, as executor of John Thruston, dec'd, am complainant, and you and others are defendants; and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

And also take notice, that on the 17th day of the same month, at the tavern of Archibald Allen, in the town of Louisville, Kentucky, I shall take the depositions of John Howard, James Hughes, Owen Gwathmey, Col. Richard C. Anderson, and others, to be read as evidence in the suit afs'd; and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

Resp'y, &c.

EDMUND H. TAYLOR,
Ex'r of John Thruston, Deceased.

A. M. FONTAINE.
Jan'y, 5th, 1824.

JEFFERSON COUNTY, *Sct.*

This day Alexander M. Fontaine came, in his proper person, before the undersigned, a justice of the peace for the county aforesaid, and made oath, that on this day he deliv'd to Wm. H. Boothe, Isaac Clark, and James A. Pearce, and one for his wife *wife*, true copy of this notice.

Given under my hand, this 10th Jan'y, 1824.

WM. FIELD, *J. P. J. C.*

TEMPLE GWATHMEY, ESQ.:

Take notice, that on the 14th day of January next, at the Mansion-house tavern, in the town of Frankfort, Kentucky, I shall take the deposition of Humphrey Marshall, and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in Kentucky, in which suit, I, as executor of John Thruston,

dec'd, am complainant, and you and others are defendants; and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

And also take notice, that on the 17th day of the same month, at the tavern of Archibald Allen, in the town of Louisville, Jefferson county, Kentucky, I shall take the depositions of John Howard, James Hughes, Owen Gwathmey, Col. Richard C. Anderson, and others, to be read as evidence in the suit afs'd; and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

Resp'y, &c.

EDMUND H. TAYLOR,
Ex'r of John Thruston, Dec'd.

Dec. 30, 1823.

I acknowledge the service of a copy of the above notice.

TEMPLE GWATHMEY.

Dec'r 31st, 1823.

To PETER PRIEST, and LUCY, his wife:

Take notice, that on the 14th day of Jan'y, 1824, at the Mansion-house tavern, in the town of Frankfort, Kentucky, kept by Col. Richard Taylor, I shall take the depositions of Humphrey Marshall, and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, Kentucky, in which said suit, I, as executor of John Thruston, dec'd, am complainant, and you and others are defendants; and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

And also take notice, that on the 17th day of the same month, at the tavern of Archibald Allen, in the town of Louisville, Kentucky, I shall take the depositions of John Howard, James Hughes, Owen Gwathmey, Col. Richard C. Anderson, and others, to be read as evidence in the suit afs'd; and I shall continue at the same place, from day to day, (Sundays excepted,) until said depositions are taken.

Resp'y, &c.

EDMUND H. TAYLOR,
Ex'r of John Thruston, Dec'd.

Dec'r 5th, 1823.

JEFFERSON COUNTY, *Sct.*

This day Alexander M. Fontaine came, in his proper person, before the undersigned, a justice of the peace for the county aforesaid, and made oath, that on the 9th day of Jan'y, 1824, he deliv'd to Mr. P. Priest and his wife true copy of the within notice.

Given under my hand, this 10th day of January, 1824.

WM. FIELD, *J. P. J. C.*

Benjamin Temple, and Eleanor E., his wife, George W. Clark, Isaac R. Gwathmey, and Elizabeth, his wife, John Logan, and Nancy, his wife, George Woolfolk, and Catharine, his wife, and Mrs. Frances Jones:

Take notice, that on the first Thursday in April, 1824, at the house of Humphrey Marshall, in the town of Frankfort, Kentucky, I shall take the depositions of said Marshall, and others, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in Kentucky, in which said suit I, as executor of John Thruston, dec'd, am complainant, and you and others are defendants; and if not taken on that day, I shall attend at said Marshall's house on the 1st Friday of the same month, to take his said deposition, and others.

And on the 1st Saturday in the same month, at the tavern of Daniel Weisiger, in the said town of Frankfort, I shall take the deposition of John H. Todd, and others, to be read as evidence in the suit aforesaid.

And on the third Thursday of the same month, at the office of Ch's M. Thruston, in the town of Louisville, Kentucky, I shall take the deposition of Henry Hurst, Oliver, Wm. C. Galt, James Hughes, and others, to be read as evidence in the suit afs'd; and I shall continue at the last mentioned from day to day, (Sundays exceped,) until said depositions are taken.

Respectfully, &c.,
EDMUND H. TAYLOR,
Ex'r of John Thruston, deceased.

February 24, 1824.

Executed, March 27, 1824, by the delivery of a true copy of the within notice to Geo. W. Clark. The other parties herein named are no inhabitants of Fayette county.

(Fee paid.)

J. C. RICHARDSON, *D. S.*
For JAS. WOODS, *Shff.*

To Mrs. Dianah Bullitt, George C. Gwathmey, Miss Cicilia Anderson, William H. Booth, Jas. A. Pearce, and Nancy, his wife, Isaac Clark, Mrs. Lucy Croghan, Peter Priest, and Lucy, his wife, Mrs. Fanny Fitzhugh:

Take notice, that on the 28th day of this month, at the Mansion-House tavern, in the town of Frankfort, Kentucky, I shall take the deposition of Col. Chs. S. Todd, and others, to be read as evidence, in a certain suit in chancery, depending in the Jefferson circuit court, in which suit I, as Executor of John Thurston, dec'd, and you, and others, are defendants, and I shall continue at the last mentioned place, from day to day, (Sundays excepted,) until said depositions are taken; and on the 3rd day of June, 1824, at the office of Thurston and Richardson, in the town of Louisville, Ken-

tucky, I shall take the depositions of John Howard, and others, to be read as evidence, in the suit afs'd, and I shall continue at the last mentioned place, from day to day, (Sundays excepted,) until said depositions are taken.

Yours, &c.

EDMUND H. TAYLOR,
Exr. of John Thurston, dec'd.

May 21st, 1824.

Executed by delivering a true copy of the within notice to Lucy Croghan, Peter Priest, and Lucy, his wife, and Cicilia Anderson, this 24th May, 1824; and on the 25th same month, to James A. Pearce, and Nancy, his wife, Isaac Clark, W. H. Boothe, Dianah Bullitt, George C. Gwathmey, and Fanny Fitzhugh.

IRA PARKS, *C. J. C.*

"I, Worden Pope, husband of the late Elizabeth Thruston, one of the daughters and distributees of John Thruston, deceased, do hereby release to Edm'd H. Taylor, executor of the testament and last will of the said John Thruston, (for the benefit, interest, and advantage of Charles M. Thruston, without any recourse,) all the right, title, and interest of myself, and the said Elizabeth, my wife, of, in, and to a debt due and claimed by the said Taylor, executor as aforesaid, under a mortgage given to the said John Thruston, by George R. Clark, and upon which a suit in chancery, is now depending in the Jefferson circuit court, in the State of Kentucky, in the name of said Taylor, executor as aforesaid, against William Clark, and others; and I do hereby disclaim (in favor of the said Charles M. Thruston) all claim to the said debt and mortgage.

Witness my hand and seal, this 6 day of June, 1823.

WORDEN POPE. [SEAL.]

The deposition of Worden Pope, taken at the office of Thruston and Hawes, in the town of Louisville, in the county of Jefferson, and State of Kentucky, in behalf of the complainant, to be read as evidence in a suit in chancery, now depending in the Jefferson circuit court, in the State of Kentucky, between Edmund H. Taylor, executor of the testament and last will of John Thruston, deceased, complainant, and William Clark, and others, defts. The deponent being of lawful age, and first duly sworn, deposes and says, that he, at the request of the said William Clark, carried a deed to the clerk's office of the court of appeals, of Kentucky, to be recorded from George R. Clark to the said William Clark, for two tracts of land below the Tennessee river, in Kentucky, that he, as a witness to the said deed, proved the same before the clerk of the said court, that said Pope was then on his way to Lexington, and on his return to Frankfort, found that Humphrey Marshall, Esq., had entered a protest in the said office against the said deed; and that he believes that the papers made part hereof, marked W. C. and H. M., are copies of the said deed and protest and referred to for greater certainty. The deponent

states that the said William Clark told this deponent, that the said deed was made to him by the said George R. Clark, in order to bring the said Marshall to terms in relation to the contract which the said Marshall had from the said G. R. Clark, for the land conveyed by the said deed, or to obtain a vacation of the said contract. That such was the object of the said William Clark, as declared by him, concerning the said deed, the deponent is certain and positive. This deponent further deposes and says, that at the request of Dennis Fitzhugh, he drew a deed from the said William Clark, and the surviving brothers and sisters of the s'd G. R. Clark, dec'd, and the representatives of those who were dead, a deed for said land to Charles S. Todd, Esq., which was not finally executed, and the contract vacated; and that in the course of the execution of the said deed, the acknowledgement of which was made by many of the parties, who were heirs of the said G. R. Clark, and that this deponent distinctly understood that all the parties, say the heirs of the said Geo. R. Clark, were acknowledged to have a part or share in the lands conveyed by said deed, as heirs of the said Geo. R. Clark, and that the said William Clark admitted their right thereto, under a memorandum or writing of the s'd G. R. Clark, or of the said William Clark, to him. The deponent is positively certain that all the persons who signed and executed the said deed, claimed the land aforesaid, as the heirs of the s'd G. R. Clark. The deponent further states that he believes that the said land was sold to the said Todd, for upwards of thirty thousand dollars, the amount of which the deponent can't recollect. He also states that the said G. R. Clark conveyed several tracts of land to the said William Clark, lying in the Illinois grant, in the State of Indiana, and that the deponent believed that the said lands were conveyed to prevent them from being sold under a judgement for a large sum recovered by one Barzardon, against the s'd G. R. Clark. The deponent further states, that the said William Clark was, as the deponent believes, the only surviving brother of the s'd G. R. Clark, dec'd, at the time of his death. That Mrs. Lucy Croghan, and Mrs. Fanny Fitzhugh, are the sisters of the said George R. Clark. That Mrs. Ann Gwathmey, dec'd, late wife of Owen Gwathmey, was one of the sisters of the s'd G. R. Clark, and died after him, leaving the following children, and grand-children, viz: John Gwathmey, Temple Gwathmey, Samuel Gwathmey, Isaac R. Gwathmey, Deana M. Bullitt, wife of Thomas Bullitt, Mrs. Frances Jones, Lucy Priest, wife of Peter Priest, Catharine Woolfolk, wife of Geo. Woolfolk, Mrs. Elizabeth C. Anderson, wife of Richard C. Anderson, jr., George C. Gwathmey, and William Booth, son of Ann C. Booth, dec'd, late wife of Wm. H. Booth. That Mrs. Anderson, dec'd, late the wife of Col. Rich'd C. Anderson, was also a sister of the said George C. Clark, and died before him, leaving the following named children, to wit: Richard C. Anderson, jr., Nancy Logan, wife of John Logan, Elizabeth Gwathmey, wife of Isaac R. Gwathmey, and Cecilia Anderson. And that Jonathan Clark was also a brother of the said George R. Clark, and died before him, leaving the following children, viz: John

H. Clark, Isaac Clark, William Clark, George W. Clark, Eleanor E. Temple, wife of Benjamin Temple, and Ann Pearce, wife of James A. Pearce, and that the said John H. Clark died unmarried and intestate, after the death of the said Jonathan Clark, and G. R. Clark, and further the deponent saith not.

WORDEN POPE.

The said deponent, Worden Pope, further deposes and says, that the release which precedes his foregoing deposition, in five pages, this included, is his act and deed, that at the taking of his said deposition he had no interest, direct or contingent, in the event of the suit therein mentioned, and is not to receive any part of the money or other thing, which shall be recovered in the said suit, nor am I, the deponent, to be responsible in any way, in consequence of the said release, and further the deponent saith not.

WORDEN POPE.

Worden Pope, whose deposition is given and contained in the forgoing five pages, (this included,) is not to be responsible to me or my heirs, in any way, in consequence of the release above set forth to Edm'd H. Taylor, for my benefit.

Witness, my hand and seal, this 6th day June, 1823.

CH'S M. THRUSTON. [SEAL.]

JEFFERSON COUNTY, *sct.*

I, William Tompkins, a justice of the peace for the county aforesaid, do hereby certify, that the foregoing deposition of Worden Pope was this day taken, subscribed, and sworn to before me, at the office of Thruston and Hawes, on this day.

Witness my hand, this 6th day of June, 1823.

WM. TOMPKINS, *J. P. J. C.*

This indenture made this 25th day of July, one thousand eight hundred and three, between George Rogers Clark, of the county of Jefferson, and the Commonwealth of Kentucky, of the one part, and William Clark, of the said county and State, of the other part, witnesseth: That the said George Rogers, for and in consideration of the sum of twenty-one hundred dollars (sundry services by the said William) to him in hand paid by the said William, the receipt whereof he doth hereby acknowledge. He, the said George Rogers, hath granted, bargained, and sold, and by these presents do hereby grant, bargain, sell, alien, and confirm unto the said William, his heirs and assigns, forever, two certain tracts or parcels of land, containing seventy-three thousand nine hundred and sixty-two acres, more or less, situated, lying, and being in the county of Livingston, on the Ohio, below the Tennessee river, and bounded as follows, to wit:

Beginning at three maples, two ashes, and a hackberry, on the bank of the Ohio, at the mouth of Tennessee river, running from thence south sixteen degrees west one thousand two hundred and eighty

poles, crossing a creek at two white oaks and three maples, standing on the bank of the creek that empties into the Ohio at the lower end of the island, at the mouth of Tennessee; thence, north seventy-four degrees west five thousand five hundred and ninety-eight poles, crossing a fork of Mazac creek at 1830 poles, another at 2340 poles, a branch at 3000 poles, and another at 3396 poles, passing a corner five black oak saplins in the head of a hollow at three thousand eight hundred and forty poles to a white oak and hickory by a small drain corner to George Smith, running from thence with his line north fifty-eight degrees west two thousand one hundred and sixty-six poles to two maples and a cotton wood tree standing on the river at the lower side of a small creek and the fifth below Massac, running from thence up the Ohio, binding thereon eight thousand six hundred and forty poles to the beginning.

To have and to hold the said tract or parcel of land unto the said William Clark, his and assigns, to his and their only proper use and behoof. And the said George Rogers Clark for himself and his heirs, the said two tracts or parcels of land unto the said William Clark, his heirs and assigns, shall and will warrant and forever defend against the claim of him and his heirs, and all other person or persons claiming by, from, or under him, or them, except the part deeded to Levi Hollingsworth and Harry Innis, &c. And the said George Rogers Clark, for himself and his heirs, doth covenant to and with the said William Clark, his heirs and assigns, that in case any part of the said tract or tracts of land shall be lost by other; that then he, the said George Rogers Clark will refund so much of the purchase money as will be in the same proportion given for any part that may be lost.

In testimony whereof, the said George Rogers Clark hath hereunto set his hand and seal the day and year before written. An interlineation in the 31st line.

G. R. CLARK. [SEAL.]

Witness: Signed, sealed, and delivered in the presence of

ROBERT K. MOORE,
CHARLES ANDERSON,
ISAAC ROBERTSON,
WORDEN POPE,
COLBY TAYLOR,
ANTHONY REYNOLDS,
W. AKIN,
GEORGE POPE,
GEORGE WILSON,
EDWARD DENNY.

STATE OF KENTUCKY, *sct.*

I, Achilles Sneed, clerk of the court of appeals of the State aforesaid, being duly authorized by law to receive, admit, and record deeds and other writings in my office, do hereby certify that the fore-

going deed was produced to me in my office in Frankfort, on the twelfth day of November, 1803, and proved by the oath of Worden Pope, and on the 17th day of the same month, was further proved by the oath of George Wilson; and on the 28th day of the same month aforesaid, was further and fully proved by the oath of William Akin, being three of the subscribing witnesses thereto, to be the act and deed of the said George Rogers Clark, the grantor therein named, and that the same is truly recorded.

In testimony whereof, I have hereunto subscribed my name the day and year last aforesaid.

ACHILLES SNEED, *C. C. A.*

A copy:

Att. A. G. BONDURANT, *D. C.*
For Achilles Sneed, C. C. A.

Having seen a deed of conveyance from George Rogers Clark to William Clark, for two tracts of land, containing 73,962 acres, more or less, situated in the county of Livingston, on the Ohio, the Tennessee, and bounded as in the said deed, bearing date the 28th day of July, 1803, is described, I do hereby protest against the said deed as being illegal and fraudulent; because the said G. R. Clark stands bound to me by solemn contract, entered into prior to the date of the said deed, to convey to me the said two tracts of land; and because there is now, and long hath been, a suit in chancery depending in the federal court for the district of Kentucky, by Robert Morris, as my assignee, complainant against the said G. R. Clark, to compel a specific execution of the said contract.

Given under my hand and seal, this 12th day of November, 1803.

H. MARSHALL. [SEAL.]

STATE OF KENTUCKY, *sct.*

I, Achilles Sneed, clerk of the court of appeals or the State aforesaid, and being duly authorized by law to receive and admit to record deeds and other writings in my office, do hereby certify that the foregoing instrument of writing was produced to me in my office in Frankfort, on the 12th day of November, one thousand eight hundred and three, and acknowledged by Humphrey Marshall, to be his act and deed, and that the same is truly recorded.

In testimony whereof, I have hereto subscribed my name, the day and year aforesaid.

ACHILLES SNEED, *C. C. A.*

A copy.

Att. A. G. BONDURANT, *D. C.*
For Achilles Sneed, C. C. A.

Isaac Shelby, Esq., Governor of the Commonwealth of Kentucky, to all to whom these presents shall come, greeting:

Know ye, that by virtue and in consideration of twenty five

land office treasury warrants, Nos. 1307, 1308, 1309, 1310, 1311, 1312, 1814, 1815, 1816, 1817, 1818, 1819, 1820, 1821, 1822, 1823, 1824, 1825, 1827, 1828, 1829, 1830, 1831, 1832, 1833, 1834, and 1835, there is granted by the said Commonwealth unto Brigadier General George Rogers Clark, a certain tract of parcel of land, containing thirty-seven thousand acres by survey, bearing date the eighth day of June, 1784, lying and being in Lincoln county, and on the Ohio, and bounded as followeth, to wit :

Beginning at a black walnut, elm, and hoopwood, standing on the bank of the Ohio, and corner to his former survey of 36,962 acres, running from thence down with the several meanders of the Ohio, N. 55, W. 104 poles; N. 70, W. 194 poles; N. 56, W. 126 poles; N. 70, W. 320 poles; N. 65, west 88 poles; N. 75, W. 224 poles; N. 70, W. 450 poles; N. 80, W. 704 poles; N. 85, W. 80 poles; N. 80, W. 236 poles; west 290 poles; S. 85 W. 160 poles; S. 77, W. 320 poles; S. 70, W. 210 poles; S. 55, W. 320 poles; S. 40, W. 534 poles to two maples and a cotton wood tree, standing at the lower side of a small creek, and the fifth below Massac fort and creek, and corner to George Smith's survey; from thence with his line S. 58, E. 2166 poles to his corner of a white oak and hickory, by a small drain running west; thence, S. 74, east 1758 poles to five black saplins, the southwest corner of his former survey; thence, with his line N. 16, east 1800 poles to the beginning, with its appurtenances.

To have and to hold the said tract or parcel of land with its appurtenances to the said Brigadier General George R. Clark, and his heirs forever.

In witness whereof, the said Isaac Shelby, Esq., Governor of the Commonwealth of Kentucky, hath hereunto set his [L. S.] hand, and caused the seal of the said Commonwealth to be affixed at Frankfort, on the 15th day of September, in the year of our Lord one theusand seven hundred and ninety-five, and of the Commonwealth the fourth.

ISAAC SHELBY.

By the Governor:

JAMES BROWN, *Secretary*.

A copy: Test: JOHN M. FOSTER,
Reg. L. Off. by James Y. Love Dep. Reg.

"Isaac Shelby, Esq., Governor of the Commonwealth of Kentucky. To all to whom these presents shall come, greeting:"

"Know ye, that by virtue and in consideration of fourteen land office treasury warrants, No. 1294, 1295, 1296, 1297, 1298, 1299, 1300, 1301, 1302, 1303, 1304, 1305, 1306, and 1826, there is granted by the said Commonwealth unto briga. gen'l. George Rogers Clark, a certain tract or parcel of land, containing thirty-six thousand nine hundred and sixty-two acres by survey, bearing date the seventh day of June, 1784, lying and being in Lincoln

county, and on the Ohio, and bounded as followeth, to wit: Beginning at three maples, two ashes and a hackberry on the bank of the Ohio, at the mouth of Tennessee river, running from thence S. 16° W. 1280 poles, crossing a creek to two white oaks and three maples, standing on the bank of the creek that empties in the Ohio at the lower end of the Island, at the mouth of Tennessee, thence N. 74, west 3,840 poles, crossing a fork of Massac creek at 1,830 poles, another at 2,340 poles, a branch at 3,000 poles, and another at 3,396 poles, to five black oak saplins, in the head of a hollow, running north near the top of a ridge, thence N. 16, east 1,800 poles, crossing a branch of Five-mile-creek, and a pond to a black walnut, elm and hoopwood, on the bank of the Ohio, about three miles below fort Massac, thence running up the Ohio with its several meanders 4,480 poles, to the beginning with its appurtenances. To have and to hold the said tract or parcel of land with its appurtenances to the said brigr. general George Rogers Clarke, and his heirs forever."

"In witness whereof, the said Isaac Shelby, Esq., Governor of the Commonwealth of Kentucky, hath hereunto set his hand, and caused the seal of the said Commonwealth to be affixed at Frankfort, on the fifteenth day of Septr., in the year of our Lord, one thousand seven hundred and ninety-five, and of the Commonwealth the fourth.

[SEAL.]

By the Governor:

ISAAC SHELBY.

JAMES BROWN, Secy.

A copy—test: JNO. M. FOSTER, *Reg. L. Off.*
By JAMES Y. LOVE, *Dep. Reg.*

June 6th, 1823. For want of time to conclude the taking of the depositions in the foregoing case, the business was adjourned till tomorrow, the 7th. Witness my hand.

WM. TOMPKINS, *J. P. J. C.*

Also the deposition of William C. Galt, of lawful age, taken at the office of Thruston and Hawes, agreeably to adjournment on the 7th day of June, 1823, to be read as evidence in the suit aforesaid. The deponent being first sworn deposes and says that on the July, 1818, he, deponent, in conjunction with Epaphoras Jones, Thomas R. West, and Doct. J. Whitcomb, purchased of William Clark, through his agent, Samuel Gwathmey, one hundred acres of land, more or less, of land, being lot No. 28, letter D, in Illinois, State of Indiana, for which we paid said Clark, $4,500, that this land was originally patented to Gen'l. Geo. R. Clark, and further this deponent says not.

W. C. GALT.

Also the deposition of Charles W. Thruston, of lawful age, taken at the office of Thruston and Hawes, agreeable to adjournment on this

7th day of June, 1823, to be read as evidence in the suit aforesaid, the deponent being first sworn, deposes and says: that since the death of Gen'l George Rogers Clark, the land conveyed by the said G. R. Clark to Wm. Clark, as mentioned in deed marked (W. C.) and made part of Worden Pope's deposition, being the remaining interest of the said G. R. Clark, in the land contained in the patents (marked G. H.) and made part of this deposition, was dev'd among the whole of the heirs of the said G. R. Clark, on paper by the said William Clark, and further this deponent saith not.

C. W. THRUSTON.

Also the deposition of Fortunatus Cosby, of lawful age, taken at the office of Thruston and Hawes, agreeably to adjournment on the 7th day of June, 1823, to be read as evidence in the suit aforesaid. The deponent being first sworn, deposes and says: that previous to the death of John H. Clark, son of Jonathan Clark, and one of the heirs of George Rogers Clark, *Mat at barber*, then living in Louisville *a* and a slave applied to this deponent to endeavour to collect or secure a debt due to him from the said John H. Clark, for monies loaned and deposited with the said John H. Clark, amounting, as he believes, to about $1800. That the said Clark promised this deponent, that he would secure the said debt, but never did, during his lifetime. That after the death of the said John H. Clark, he called on Dennis Fitzhugh, Esq., who he supposed was acquainted with the situation of the said Clark's estate, who informed this deponent that he believed the estate of the said Clark would be sufficient to pay all his debts. That as one of the heirs and representatives of George Rogers Clark, he would be entitled to 2,000 acres, (as he thinks,) his proportion of a large tract of land below the Tennessee river, which had been sold to Humphrey Marshall, by the said G. R. Clark, and the said Marshall having failed to comply with the contract of sale, it had reverted to Gen'l G. R. Clark, and descended to his heirs. This deponent understood and believes that the said Fitzhugh was the agent of the heirs of the said G. R. Clark, in settling and adjusting with the said Marshall his claim to the said land, and thinks he was so informed by the said Fitzhugh, which contract of purchase of the said land by Marshall, has been since vacated. This deponent states that Charles W. Thruston, whose deposition is above written, is a first cousin of Charles M. Thruston, and a nephew of William Clark, brother of the said G. R. Clark, and further this deponent saith not.

FORTS. COSBY.

JUNE 7th, 1823.

The depositions in the above case not being closed, the business was again adjourned till Monday, the 9th instant.

Witness my hand.

WM. TOMPKINS, *J. P. J. C.*

Justices' fees paid for two days attendance by Charles M. Thruston, $2.

WM. TOMPKINS, *J. P. J. C.*

Monday 9th June, 1823, no farther testimony being produced, I proceeded to close the depositions.

WM. TOMPKINS, *J. P. J. C.*

JEFFERSON COUNTY, *Sct:*

I, William Tompkins, a justice of the peace for the county aforesaid, do hereby certify that the foregoing depositions of Wm. C. Galt, Ch's. W. Thruston and Fortunatus Cosby were taken, sworn to and subscribed before me, at the office of Thruston and Hawes, on the 7th day of June, 1823.

Witness my hand and seal this 11th day of June, 1823.

WM. TOMPKINS, *J. P. J. C.*

The deposition of John Howard, of lawful age, taken at the tavern of Archibald Allen, in the town of Louisville, Jefferson county, Kentucky, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in Kentucky, in which said suit Edmund H. Taylor, executor of John Thruston dec'd, is complainant, and William Clark and others are defendants. This deponent being first duly sworn, deposes and says: That in the spring of the year 1801, he was at the house of the late Col. John Thruston on business, when were present Gen'l Geo. R. Clark, Edmund H. Taylor, this deponent, and the said John Thruston, when and where this deponent was called on and did attest a paper as a witness thereto; he presumes the mortgage made a part of this deposition from the said George R. Clark to the said John Thruston. The said Edmund H. Taylor, also signed a paper as a witness on the same day. This deponent distinctly recollects the act and fact of signing the said instrument by the said G. R. Clark, and the same is signed in the hand writing of the said G. R. Clark, and further this deponent saith not. The signature of John Howard to said mortgage, is in the hand writing of this deponent.

JNO. HOWARD.

17th January, 1834.

Adjourned at the request of Charles M. Thruston, to Monday, the 19th inst., at the same place.

WM. TOMPKINS, *J. P. J. C.*

17th January, 1824.

JEFFERSON COUNTY, *Sct:*

I, William Tompkins, a justice of the peace, for the county aforesaid, do hereby certify that the foregoing deposition of John Howard was taken, subscribed and sworn to before me at the tavern of Archibald Allen, in the town of Louisville, on the 17th day of Jan'y, 1824, and that Samuel Gwathmey, one of the def'ts, was present during the time of taking said deposition.

Given under my hand this 19th Jan'y, 1824.
WM. TOMPKINS, *J. P. J. C.*
My fee $1, paid by Ch's. M. Thruston.
WM. TOMPKINS, *J. P. J. C.*

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the said George Rogers Clark, for and in the sum of five hundred, thirty-four pounds 3-5 lawful money, to him in hand paid by the said Thruston, at or before the sealing and delivery of these presents, the receipt whereof, he, the said George Rogers Clark, doth hereby acknowledge hath granted, bargained and sold, and by these presents doth grant, bargain and sell unto the said Thruston, his executors, administrators and assigns, the several tracts or parcels of land, to wit, 4,000 acres, lying on Locust creek, (Bracken county,) a moiety of 8,000 acres, entered in the name of John Crittenden, and surveyed, and patented to Geo. R. Clark, on a previous division with Simon Kenton, assignee, &c. &c., 428 (or about that quantity) acres, lying on and including the mouth of Sulpher lick creek, military grant, south of Green river, entered and surveyed for George Clark; 1,500 acres of land military grant, entered on a warrant issued to George R. Clark, surveyed and patented to him, lying below the Carolina line, and about two miles from Cumberland river; 15,000 acres of land, on Clark's river, below the Tennessee, and emptying into the Tennessee about three miles above the mouth, entered on a military warrant for George R. Clark; also a mill-seat on Mill-run, in the town of Clarksville, granted the said George R. Clark, by the trustees of the town of Clarksville; and also, the reversion and reversions, remainder and remainders, rents, issues and profits of all, and singular the premises, and of every part and parcel thereof, with the appurtenances. To have and to hold the said several tracts and parcels of land above described, and every part and parcel thereof, with the appurtenances, unto him the said Thruston, his ex'rs, administrators, and assigns forever. And to the only proper use, benefit and behoof of him, the said Thruston, his heirs, executors, administrators and assigns. And the said Geo. Rogers Clark for himself, his heirs and administrators, doth covenant with the said Thruston, his heirs and assigns, that he is lawfully seized in fee of the premises, that they are free from all incumbrances, and that he has good right to and convey the same to the said Thruston, and that he will arrant and
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the date hereof, without *without* any deduction, defalcation or abatement whatsoever, for or by reason of any taxes, assessments or impositions whatsoever, either ordinary or extraordinary already imposed or hereafter to be imposed on the said premises or any part thereof; that then and from thenceforth, these presents and every matter and thing herein contained, shall cease, determine, and be utterly null and void, to all intents and purposes, any thing herein contained to the contrary notwithstanding.

In testimony whereof, the said George Rogers Clark hath [SEAL.] hereunto set his hand and seal, the day and year above written.

G. R. CLARK.

Signed, sealed and delivered in presence of
EDMUND H. TAYLOR,
JNO. HOWARD.

"The deposition of Humphrey Marshall, of lawful age, taken at the Mansion-house tavern, in the town of Frankfort, Kentucky, (kept by Richard Taylor,) to be read as evidence in a certain suit in chancery depending, in the Jefferson circuit court, in Kentucky, in which said suit Edmund H. Taylor, executor of John Thruston, deceased, is complainant, and William Clark and others are defendants.

This deponent being first sworn, deposes and says:

Question by complainant.

Did you, or did you not, once make a contract in writing, with the late George Rogers Clark, for the purchase of two large tracts of land, south of Green river, the one containing ——— acres, and the other ——————— acres?

"Answer. I contracted in writing with the late Genl. G. R. Clark, for two large tracts of land on the Ohio, at and below the mouth of the Tennessee river, making, together, seventy-three thousand nine hundred and sixty-two acres, more or less.

"By same.

"What consideration did you agree to give for those lands?

"Answer. I was, by the said contract, to pay at the rate of half a dollar per acre for the expressed quantity.

"Question by same. Was that contract ever executed by said George Rogers Clark, or his heirs?

"Answer. The contract was never executed by performance, either by Genl. G. R. Clark, or his heirs.

"Question by same. Please state the reasons why said contract was finally vacated?

"Answer. On my being afflicted, by a paralytic stroke, I gave up the contract on my part, to my son, J. J. Marshall, who, after a

part payment to Mr. D. Fitzhugh, acting for Genl. Wm. Clark, rescinded the contract, as I have understood and believe.

"Question by same. Are you not apprized, that about the year 1803, George Rogers Clark made a conveyance of those lands to his brother, William Clark, which deed of conveyance is recorded in the clerk's office of the court of appeals?

"Answer. I have seen the record above alluded to, in the office of the court of appeals.

"Question by same. Did, or did you not, enter your protest against sd. deed, and the recording thereof, at the time it was lodged with the clerk of the court of appeals for record?

"Answer. At the time, or very soon after, I saw the record aforesaid. I did execute a protest against it, and left it to be recorded in the same office.

"Question by same. What induced you to make this protest?

"Answer. It was to evince my claim to the land; to give it publicity, and to avoid any consequence of a seeming acquisecence on my part.

"By same. Did, or did you not, ever have any conversation with Genl. William Clark, on the subject of the conveyance, or the motives or consideration thereof; or did, or did you not, receive a letter or letters from the said Genl. William Clark, on the subject of said conveyance. If you have said letter yet in possession, please file it with, and make it part of, your response to this question. If you have lost or mislaid it, please state its contents.

"Answer. I do not recollect having any conversation with Genl. Wm. Clark, on the subject of the conveyance or protest. About the year 1819, living then in Paris, Bourbon, and hearing that Genl. Clark was at the Blue Licks, I addressed a letter to him, on the subject of the original contract, suggesting an execution on both sides, (there having been at least one suit on each side,) without further litigations, considering the title at law was in him, with notice of the purchase by me, of said lands. To this letter, I think it was, I received his reply, from which this impression is distinct on my mind, 'that he took the conveyance of the land from his brother, to secure the payment of money which he had advanced to him, paid for him, or was bound to pay for him, or on some, or all of these accounts. No sum is recollected, but the letter suggested, that beyond that object, he was interested only as one of the heirs of Gen. G. R. Clark, and that he was willing to adjust the matter on fair principles, the particular terms in which these ideas were conveyed, are not recollected; and at a subsequent period, Mr. D. Fitzhugh, as agent for Genl. Wm. Clark, met me, with a view to effectuate said original contract. The aforesaid letter from said Clark, has been looked for, but not found.

"Question by same. Do you believe said letter, or the letter you received from him, relative to the settlement of your business, was in his handwriting.

"Answer. I cannot say that I was well acquainted with the handwriting of s'd Gen. Wm. Clark. I did not then doubt from the contents

of the letter alluded to, but that it was from said Clark, *not* can I *dont* it now; he had, as the letter stated, among other things, as I believe, that he had not received mine, at the licks, or until he had left the licks.

"Question by same. Do you, or do you not know that the heirs of Genl. George Rogers Clark, to wit, the said William, and the brothers and sisters, &c., of said G. R. Clark, thro' their agent, Dennis Fitzhugh, ever made a contract with a certain Charles S. Todd, for the sale of the two tracts of land aforesaid.

"Answer. I do not recollect the parties names on the part of Clark, but was informed by s'd D. Fitzhugh, who, I think, shewed me the contract made with said Todd for said land, at, I think, forty-five thousand dollars; the particulars are, however, not recollected.

"Question by same. Was or was not this contract with Todd subsequent to the vacation of your contract aforesaid spoken of.

"Answer. I believe the contract with Todd was prior to the vacation of the original contract with me.

"Question by same. What do you suppose to be the value of the aforesaid tracts of land.

"Answer. I never saw the said lands, and have had various descriptions of them, leaving at difficult for me to set any specific value on them, nor in fact can I do it.

"Question by same. Do you believe that the sale was a bona fide one, and on good consideration, from George Rogers Clark to Wm. Clark.

"Answer. I knew certainly that Genl. Wm. Clark knew of my contract with George R. Clark before he took the conveyance of the land as mentioned, and therefore thought it could not be bona fida as to me, although it be good as a security for any money that Genl. G. R. Clark might owe said Genl. Wm. Clark.

"Question by same. Do you believe that this contract or deed was made by G. R. Clark to William Clark, for the purpose of defeating you in your claim.

"Answer. I certainly had suspicion of such an intent, not knowing really the object, until apprised by the letter before mentioned, from Genl. Wm. Clark with what intent it was made. There had been various suits, but none prosecuted to effect. I had, too, disposed of my interest in the contract to Robert Morris, and he had transferred it to Thomas Fitzsimmons, and in consequence it was dormant for a number of years, until in the winter 1818, '19, I recovered it it from the heirs of the latter.

"Question by same. You have stated in your deposition, that the conveyance from George R. Clark to William Clark, was to secure him, William, for a sum of money advanced by him to G. R. Clark; do you not believe the lands to be much more than sufficient to satisfy William for the money advanced.

"Answer. Without being able to any particular expression in the letter of Wm. Clark above referred to, and that is my sole authority for my knowing any thing about the subject of amount. My im-

pression is, that the sum intended to be secured, bore but a small proportion to the contract price of the land conveyed.

"Question by same. Did or did you not, ever hear Dennis Fitzhugh say that the heirs of said G. R. Clark was interested in the value or proceeds of said land.

"Answer. Although the legal title of said lands was in Genl. Wm. Clark, and D. Fitzhugh acted under authority from him, I did understand distinctly from him that said heirs were interested in said lands or the proceeds. This was, however, a circumstance which did not seem to interest me. What I wanted was the title, and was willing to take it from Genl. William Clark, and being no further interrogated sayeth nothing more.

H. MARSHALL.

Magistrates fee $1. pd.

FRANKLIN COUNTY, *sct.*

The above depoistion of Humphrey Marshall was this day taken, subscribed, and sworn to before the undersigned, a justice of the peace in and for said county, at the place in the preamble mentioned.

Given under my hand this 17th day of January, 1824.

O. G. WAGGONER, *J. P.*

The deposition of John J. Marshall, of lawful age, taken at the house of Humphrey Marshall, in the town of Frankfort, to be read as evidence in a certain suit, in chancery depending, in the Jefferson circuit court, in Kentucky, in which said suit, Edmund H. Taylor, ex'r of John Thruston, is complainant, and Wm. Clark, &c. are def'ts. The deponent being sworn, deposeth and saith, that about the year 1819, he became interested with H. Marshall, in a contract for about 75,000 acres of land, patented to George Rogers Clark, below the mouth of Tennessee. That the late Dennis Fitzhugh was the active agent, who attended to the subject for, and on behalf of the heirs of G. R. Clark; the business, how'er, being done in the name of William Clark, late Governor of Missouri. This deponent knew the s'd land had been mortgaged to William Clark, but distinctly understood from the aforesaid Fitzhugh, who, he understood, married Mrs. Thruston, the sister of Wm. Clark, that said heirs of George R. Clark, were all interested in said land; and this deponent thinks said Fitzhugh more than once mentioned the fact of the number of persons among whom the price of said land was to be divided, and particularly assigned the smallness of the interests of his family, as a reason for his taking from this deponent a forfeiture of ten shares in the bank of K'y, to indemnify him for his trouble and expense in attending to the matter; and further, this deponent saith not.

J. J. MARSHALL.

FRANKLIN COUNTY—*Sct.*

I do certify, that the foregoing deposition of J. J. Marshall, was on the 2d of April, 1824, being the first Friday, and after 3 o'clock, P. M., taken, subscribed, and sworn to, at the place set forth in the caption, and before the subscriber a justice of the peace for s'd county. My fee $1 ; paid by compl't.

J. SUIGERT.

APRIL 2d, 1824.

The deposition of Humphrey Marshall, of lawful age, taken at the house of said Marshall, in the town of Frankfort, State of Kentucky, on the 28th day of May, 1824, to be read as evidence in a certain suit, in chancery depending, in the Jefferson circuit court, in Kentucky, in which suit Edmund H. Taylor, executor of John Thruston deceased, is complainant, and Wm. Clark and others are def'ts. This deponent being first sworn, deposes and says, (the former deposition of Humphrey Marshall; see page 134 of this record, was copied verbatim, to which the following was added :)

FRANKFORT—*May 28th*, 1834.

Interrogatories addressed to Humphrey Marshall, Esq., whose deposition is this day to be taken by the complainant, in the suit in ch'y, in the Jefferson circuit court, of Thruston's ex'r vs. Clark, &c.

Ques't 1st, by J. W. Denny, as Atto. for William Clark, of Missouri.

You have stated in a former deposition of yours, given in this cause, that you addressed a letter to William Clark, at the Blue Licks, and rec'd a reply from him; please to state what search you may have made for his reply, and if it is in your possession, file it.

Answer. I looked among some papers relative to the contract made with Gen'l G. R. Clark, and did not find it. It may, or may not be among my papers. I have no distinct recollection how I disposed of it. I was pleased to find by it, that Gen'l Clark was disposed to adjust matters; but as it contained nothing specific, it may have been neglected and lost.

Ques't by same. Is, or is not said reply in your possession?

Answer. If being any where among my papers, either here, or at Paris, is meant possession, I cannot answer positively either way; one thing I can and do say, it is not so in my possession, as that I can file it; if it were, I would annex it to this paper.

By same. You have also in your deposition stated the impressions which the reply left upon your mind. Please now to give the contents of the letter, if you can.

Answer. If I could have stated the contents of the letter, I should not have given impressions, or general recollections, only in my former deposition, for the same reason, as I have no more recollection

of the contents now, than I had at that time, nor enough to warrant an attempt at recital. I must refer to the body of the deposition for my best recollections on the subject. The letter conveyed to me, at least two distinct ideas, which made impressions; one was that he would, or was willing to make an amicable adjustment, being what I wanted; the other explained to me why he had taken the title to the land, when he knew I had bought it; and this was not only a new idea, but it relieved him, in my mind, from a censure, under which his taking the title placed him; at the same time, it seemed as if the explanation was due to his own honor.

By same. Did the reply, or letter aforesaid, state the amount of money, which the said William Clark had paid for G. R. Clark, or the amount which he was to pay?

Answer. I have no recollection that any sum was mentioned in the letter, nor can I now conceive a reason why it should have been. I am very sure the letter did not propose a partial adjustment, upon the payment of the sum he claimed, which if it had, might have been a reason for mentioning the amount. I cannot say there was any thing like intimacy between Gen'l William Clark and myself; on the contrary, even when we met, and that was seldom, there was rather a distance observed; and which I attributed to feelings growing out of the contract and misunderstanding on both sides, as I had reason to believe.

By same. In your deposition, you say you understood from Dennis Fitzhugh, that the heirs of G. R. Clark were interested in the lands, or their proceeds. Please to state now, whether you understood they were thus interested as heirs, or by contract, or by purchase from Wm. Clark, or for all you heard from Fitzhugh, might not those persons have been interested by purchase, or contract with Wm. Clark, and not as heirs of G. R. Clark?

Answer. A detailed answer to this question, it would be improper to attempt on my scanty stock of knowledge. I have no recollection of Mr. Fitzhugh mentioning any purchase made from Gen'l W. Clark, but I do distinctly recollect his mentioning the heirs of the deceased G. R. Clark, not by name, but as persons in being, and so designated, and these persons were represented by him as being interested in the lands and the proceeds of them in that number. I think he included himself mediately or incidentally; nor have I from his conversation, any recollection or impression of a contract between the heirs of G. R. Clark, and Gen'l W. Clark, as being the basis of their claim on the land; perhaps I should say that I did not think it my affair, nor make it the subject of inquiry; and further said not.

H. MARSHALL.

Also the deposition of John J. Marshall, of lawful age, taken at the house of the beforenamed Humphrey Marshall, in the town of Frankfort, which said deposition is to be read as evidence in the suit aforesaid. The deponent being sworn, deposes, and says, (the former deposition of John J. Marshall was copied, see 139 page of this record, and then the following was added on the said 28 May,

1824.) This deponent remembers Mr. Fitzhugh stating that General William Clark did not intend to avail himself of the conveyance made to him, except to secure money which he had advanced; and remembers distinctly, that he mentioned R. C. Anderson and the Croghans, as interested. He does not remember any exception being made as to any of those who would have inherited from G. R. Clark; nor did he hear of any mode by which his, Fitzhugh's family, were interested, except through their connection with G. R. Clark. The impression might have been made, that they claimed as heirs from the knowledge of the connection and the circumstances of some being named, and the fact of the smallness of interest which Fitzhugh said would accrue to his family, there being so many among whom to divide it; and further, this deponent saith not.

J. J. MARSHALL.

FRANKLIN COUNTY, *sct.*

The foregoing depositions of H. Marshall, and J. J. Marshall, were taken, subscribed, and sworn to before the subscriber, a justice of the peace for said county, this 28th day of May, 1824, at the place set forth in the caption.

J. SWIGERT, *J. P.*

My fee, $1, paid by complainant.

I, Worden Pope, husband of the late Elizabeth T. Thruston, one of the daughters and distributees of John Thruston, deceased, do hereby release to Edmund H. Taylor, of the testament and last will of the said Thruston, for the benefit, interest, and advantage of Charles M. Thruston, without any recourse, all the right, title, and interest of myself, and the said Elizabeth, my wife, of, in, and to a debt due and claimed by the said Taylor, executor as aforesaid, under a mortgage given to the said Thruston by George R. Clark, and upon which a suit in chancery is now depending in the Jefferson circuit court, in the State of Kentucky, in the name of said Taylor, executor as aforesaid, against William Clark and others, and I do hereby disclaim (in favor of the said Charles M. Thruston, all claim to the said debt and mortgage.

Witness my hand, this 6th day of June, 1823.

WORDEN POPE.

The deposition of Worden Pope, taken at the office of Thruston and Richardson, in the town of Louisville, in the county of Jefferson, and State of Kentucky, on behalf of the complainant, to be read as evidence in a suit in chancery, now depending in the Jefferson circuit court, in the State of Kentucky, between Edmund H. Taylor, ex'r of the testament and last will of John Thruston, deceased, complainant, and William Clark and others, defendants. The deponent being of lawful age, and first duly sworn, deposes and says, that he, at the request of the said William Clark, carried a deed to the clerk's office of the court of appeals of said State, to be recorded from George

R. Clark to said William Clark, for two tracts of land below the Tennessee river, in Kentucky. That he, as a witness to said deed, proved the same before the clerk of the said court; that said Pope was then on his way to Lexington, and on his return to Frankfort, found that Humphrey Marshall, Esq., had entered a protest in said office against the said deed, and that he believes that the papers made part thereof, marked W. C. & H. M., are copies of the said deed and protest, and referred to for greater certainty, filed with this deponent's former deposition in this suit. The deponent states, that the said William Clark told this deponent, that the said deed was made to him by the said George R. Clark, in order to bring the said Marshall to terms in relation to the contract which the said Marshall had from the said G. R. Clark for the land conveyed by the said deed, or to obtain a vacation of the said contract. That such was the object of the said William Clark, as declared by him concerning the said deed, this deponent is certain and positive. This deponent further deposes and says, that at the request of Dennis Fitzhugh, he drew a deed from the said William Clark and the surviving brothers and sisters of the said G. R. Clark, deceased, and the representatives of those who were dead, for said land, to Charles S. Todd, Esq., which was not finally executed, and the contract vacated, and that in the course of the execution of the said deed, the acknowledgement of which was made by many of the parties who were heirs of the said G. R. Clark. And that this deponent distinctly understood, that all the parties say, the heirs of the said G. R. Clark were acknowledged to have a part or share in the lands conveyed by said deed, as heirs of the said G. R. Clark; and the said William Clark admitted their right thereto, under a memorandum or writing of the said G. R. Clark, or of the said William Clark to him. The deponent is positively certain, that all the persons who signed and acknowledged the said deed, claimed the land as aforesaid, as the heirs of the said G. R. Clark. The deponent further states, that he believes that the said land was sold to the said Todd for upwards of thirty thousand dollars, the exact amount this deponent cannot recollect; he also states, that the said G. R. Clark conveyed several tracts of land to the said William Clark, lying in the Illinois grant, in the State of Indiana, and that the deponent believed that said lands were conveyed to prevent them from being sold under a judgment for a large sum, recovered by one Bazardon against the said G. R. Clark. The deponent further states, that the said William Clark was, as the deponent believes, the only surviving brother of the said G. R. Clark, deceased, at the time of his death. That Mrs. Lucy Croghan and Mrs. Fanny Fitzhugh, are the sisters of the said G. R. Clark. That Mrs. Ann Gwathmey, deceased, wife of Owen Gwathmey, was one of the sisters of the said G. R. Clark, and died after him, leaving the following children and grand-children, viz: John Gwathmey, Temple Gwathmey, Samuel Gwathmey, George C. Gwathmey, Isaac R. Gwathmey, Deana M. Bullitt, wife of Thomas Bullitt, deceased, Mrs. Frances Jones, Lucy Priest, wife of Peter Priest, Catharine Woolfolk, wife of George Woolfolk, Mrs. Elizabeth C. Anderson, wife of

Richard C. Anderson, junior, and William Booth, son of Ann C. Booth, deceased, late wife of William H. Booth. That Mrs. Anderson, deceased, late wife of Col. Richard C. Anderson, was also a sister of the said George R. Clark, and died before him, leaving the following named children, to wit: Richard C. Anderson, junior, Nancy Logan, wife of John Logan, Elizabeth C. Gwathmey, wife of Isaac R. Gwathmey, and Cecelia Anderson. That Jonathan Clark was also a brother of the said George R. Clark, and died before him, leaving the following children: John H. Clark, Isaac Clark, William Clark, George W. Clark, Eleanor E. Temple, wife of Benjamin Temple, and Ann Pearce, wife of James A. Pearce, and that the said John H. Clark died unmarried and intestate after the deaths of the said Jonathan Clark and of the said G. R. Clark. The said deponent, Worden Pope, further deposes and says, that the release which precedes his foregoing deposition, is his act and deed, and that at the taking of his said deposition, he had no interest, direct or contingent, in the event of the suit therein mentioned; and is not to receive any part of the money or other thing which shall be recovered in the said suit, nor am I, the deponent, to be responsible in any way in consequence of the said release; and further the deponent saith not.

WORDEN POPE.

"Worden Pope, whose deposition is given in the foregoing deposition of six pages, this included, is not to be responsible to me or my heirs in any way, in consequence of the release at the head of his deposition, signed by him to Edm'd H. Taylor, ex'r &c., for my benefit.

Witness my hand and seal, this 5th June, 1824.

CHS. M. THRUSTON. [L. S.]

"The deposition of Fortunatus Cosby, of lawful age, taken at the office of Thruston & Richardson, in the town of Louisville, by an adjournment from yesterday, to be read as evidence in a certain suit in chancery, depending in the Jefferson circuit court, in which Edmund H. Taylor, ex'r of Jno. Thruston, dec'd, is compl't, and William Clark, and others, are defendants. The deponent being first sworn, deposes, that not long before the death of John H. Clark, a son of Jonathan Clark, Mat, a barber, who was then a slave, applied to this deponent and informed him, that he had deposited with, and loaned to, s'd John H. Clark, a considerable sum of money, and said Mat requested this deponent to apply said Clark to obtain his note, and endeavour to get his debt secured. That he did apply to said Clark, who executed his note for, as he remember, *for* $1,800 and odd dollars, to Isaac Miller, the guardian of Miss Terrill, to whom Mat then belonged; and said Clark promised that he would secure the payment thereof by assigning notes, but failed to do so before he died. That after the death of said Clark, he applied to Dennis Fitzhugh, who he knew was well acquainted with said Clark's business and situation, to know if said debt could be secured; s'd Fitzhugh informed this deponent that s'd John H. Clark had an in-

terest of, he thinks, 2,000 acres of land, in a large tract or tracts of land south of Green river, as one of the representatives or heirs of Gen'l Geo. R. Clark.

Question by Compl't.

Did or did not Gen'l Jonathan Clark, the father of said John H. Clark, and of Mrs. Pearce, &c., die wealthy, and leave his children rich?

Answer. I have always so understood and believed.

By same.

Is or is not Mrs. Fanny Fitzhugh reported and believed to be in very independent circumstances?

Ans. Yes.

By same.

Is or is not Benjamin Temple esteemed and believed to be in very independent circumstances?

Ans. Yes.

And further deponent says not.

F. COSBY.

JEFFERSON COUNTY, *sct:*

The foregoing deposition of Fortunatus Cosby was taken, subscribed, and sworn to before the undersigned, a justice of the peace for the county aforesaid, at the office of Thruston and Richardson, in the town of Louisvillve, Kentucky, on the 8th June, 1824.

Given under my hand, this 8th June, 1824.

WM. FIELD, *J. P. J. C.*

"The deposition of William Tompkins, taken this 3d day of June, 1824, at the office of Thruston and Richardson, to be read as evidence in a suit in chancery, now pending in the Jefferson circuit, in which Edmund H. Taylor, ex'r of John Thruston, dec'd, is compl't, and William Clark, and others, are defendants. The deponent being of lawful age, and duly sworn, deposes and says: that previous to the death of Dennis Fitzhugh, this deponent heard him several times speak of an interest in lands south of Green river, claimed by the heirs of Gen'l George R. Clark, which interest descended to them, as this deponent understood from s'd Fitzhugh, in the character of heirs of said Clark. The said Dennis Fitzhugh married a sister of the said Clark. Major William Croghan, who married one of the heirs of said Clark, died wealthy; and Col. R. C. Anderson, who also married a sister of said Clark, is now considered by me as rich, and further says not.

W. TOMPKINS.

JEFFERSON COUNTY, *sct:*

The foregoing deposition of William Tompkins was taken, subscribed, and sworn to before the undersigned, a justice of the peace of the county and Commonwealth af's'd, on the 3d day of June, 1824, at the office of Thruston & Richardson, in Louisville, Kentucky.

Given under my hand, as justice of the peace af's'd, this 3d day of June, 1824.

F. COSBY, *J. P.*

Justice's fee p'd by comp't. $1.

"The taking of depositions in the case mentioned in the caption of the foregoing deposition is adjourned till the 4th day of June, 1824, to the office of Thruston and Richardson, in Louisville, Kentucky, at which place I met the compl't, not being prepared to take further depositions; his witnesses not attending, the further taking was adjourned till the 5th June, 1824, to meet again at the office of said Thruston and Richardson.

Given under my hand, as justice of the peace for the county af's'd, this 5th June, 1824.

F. COSBY, *J. P. J. C.*

JEFFERSON COUNTY.

I, William Tompkins, a justice of the peace in and for said county, do certify that on the 5th day of June, 1824, at the request of complt. in the aforementioned suit, I attended at the office of Messrs. Thruston and Richardson, for the purpose of taking depositions in said cause, and no witnesses appearing, the business was adjourned to the 6th, at which time, and at the same place, the deposition of Worden Pope was taken, subscribed and sworn to before me, and the business was again adjourned to the 8th, the 7th being Sunday.

In testimony of all which, I hereunto set my hand and seal, this 13th day of June 1824.

W. TOMPKINS, *J. P. J. C.*

My fee $2, pd. Chas. M. Thruston.

W. TOMPKINS, *J. P.*

"The deposition of Samuel T. Fitzhugh, taken at the office of Charles M. Thruston in the town of Louisville, on the 15th day of April, 1824, to be read as evidence in a suit now depending in the Jefferson circuit, in which the executors of John Thruston is complt. and William Clark and others are defendants. It being the 3d Thursday in this month. The deponent being of lawful age, and duly sworn, deposes and says, that he was intimately acquainted with Gen'l. George Rogers Clark from the year 1808, till the time of his death. That from the time he became acquainted with said Clark,

till his death, he was in a state of extreme bodily debility, and deponent is of opinion that he was not in the habit of handling much money. That he has heard his brother, Dennis Fitzhugh, before his death, and his wife, Fanny Fitzhugh, the sister of said G. R. Clark say, that they were interested in two large tracts of land south of Green river, which the said Clark claimed at the time of his death, but which was then in dispute. That Major William Croghan, at the time of his death, was a man of wealth, as was also Thomas Bullitt, and Col. R. C. Anderson is reputed to be so, and further sayeth not.

S. T. FITZHUGH.

Adjourned till to-morrow morning by me.

WM. TOMPKINS, *J. P. J. C.*

April 11, 1824."

16th April, 1824, adjourned till to-morrow.

WM. TOMPKINS, *J. P. J. C.*

"Also the deposition of William Tompkins, taken on the 17th day of April, 1824, at the place afsd. Deponent being duly sworn says, that after the death of Gen'l. George Rogers Clark, he heard Dennis Fitzhugh, husband of Fanny Fitzhugh, one of the defendants, speak of a claim to land in the southern part of this State by the heirs of said Clark, which, this deponent understood they claimed by descent from said Clark, and further says not.

W. TOMPKINS.

17th April, 1824.

"The further taking depositions in this cause is adjourned until Monday, the 19th instant by me.

WM. FIELD, *J. P. J. C.*

17th April, 1824.

JEFFERSON COUNTY, *sct:*

"I, William Tompkins, a justice of the peace for said county, do hereby certify that the foregoing deposition of Samuel T. Fitzhugh was taken, subscribed and sworn to before me at the office of Chs. M. Thruston, in the town of Louisville, on the 15th day of April, 1824. I do further certify, that the adjournments stated above as made by me, were regularly made from day to day at the place afsd. Witness my hand and seal this 19th day of April, 1824.

WM. TOMPKINS, *J. P. J. C.*

"My fee $3, paid by Chs. M. Thruston.

WM. TOMPKINS, *J. P. J. C.*

JEFFERSON COUNTY, *sct:*

"I, William Field, a justice of the peace for the county aforesaid, do hereby certify that the foregoing deposition of William Tompkins was taken, subscribed and sworn to before me, at the office of Charles M. Thruston, in the town of Louisville, on the 17th day of April, 1824. Given under my hand as a justice of the peace as afsd. this 19th day of April, 1824, and that the complainant wish ing not to take any other depositions, the same is now finally adjournment.

WM. FIELD, *J. P. J. C.*

"My fee $1, by C. M. Thruston.

"Depositions on part of deft. William Clark.

"The deposition of Charles M. Thruston taken this 10th June, 1824, at the office of Denny & Nicholas, in Louisville, to be read in evidence on behalf of William Clark, of Missouri, in a suit in chancery depending in the Jefferson circuit court, wherein John Thruston's ex'r. is complt., and said Wm. Clark and others are defendants. The deponent being of lawful age and first duly sworn, deposes and says: Question by Denny and Nicholas, atto. for Wm. Clark. In giving your deposition in this cause at the instance of the complt., you stated that the heirs of G. R. Clark were entitled to a proportion of the lands mentioned in said deposition; please now to state whether you intended to convey the meaning that they claimed *as heirs*, or how do they, or did they claim. Answer: I intended to convey the idea, that the individuals who were heirs of said G. R. Clark, claimed a proportion of the land referred to in my former deposition, not in their character of heirs, but under a contract signed by said William Clark, a copy of which is annexed hereto as a part of my deposition. The only claim which sd. G. R. Clark's heirs set up, or ever have claimed to said land, to my knowledge, is revived under the contract afsd. By complt. When did you first see the contract before spoken of. Answer. I do not know, and further says not.

C. W. THRUSTON.

"The within deposition may be read upon the trial without certificate of oath. 12 June, 1824.

THRUSTON, *for Complt.*

"Whereas, George Rogers Clark did, in his lifetime, by his certain indenture, which is duly recorded in the office of the clerk of the court of appeals of the State of Kentucky, for the consideration therein mentioned, did convey to me, William Clark, of the town of St. Louis, in the State of Missouri, two certain tracts of land, lying and being in the said State of Kentucky, on the Ohio river, at and below the mouth of the Tennessee river, adjoining to each other,

containing together the quantity of seventy-three thousand nine hundred and 62 acres, more or less. And whereas, William Croghan, deceased, Owen Gwathmey, Dennis Fitzhugh, and the heirs of Jonathan Clark, and of Eliza. Anderson, late Eliza. Clark, dec'd., having contributed their respective proportions of the expense and charges in defending a certain suit brought by Humphrey Marshall against me.

Now, know all men by these presents, that I, the said William Clork, in consideration of the premises, do hereby bind and oblige myself, my heirs, executors, and administrators, so soon as a division of said property can be effected, agreeably to a division herinafter stated, to convey to the heirs of Jonathan Clark, deceased, the heirs of Eliza. Anderson, dec'd, the heirs of Ann Gwathmey, late Ann Clark, dec'd, the heirs of Dennis Fitzhugh, deceased, and to Lucy Croghan, late Lucy Clark, so much of said tracts of land as lies west of Levi Hollingsworth's upper tract, in said surveys, after excluding a claim of 5,000 a. conveyed heretofore to Fanny Fitzhugh; 4,006½ a. to the said Levi Hollingsworth; 4,350½ a's conveyed to Harry Innis, and one-sixth part thereof, which may fall to myself by ballot, to wit: To the heirs of Jonathan Clark one-sixth, being that part designated by letter (B,) on a map of said land, deposited in the hands of Sam'l Gwathmey. To the heirs of Ann Gwathmey, late Ann Clark, one-sixth part, being that part designated on said map by the letters (AA,) excepting one thousand acres thereof, off of either side or end, at the option of Geo. Woolfolk, to the said Woolfolk,) to the heirs of Elizabeth Anderson, late Eliza. Clark, dec'd, one-sixth, being that part designated by letter (C.) To the heirs of Dennis Fitzhugh, dec'd, one-sixth part, being that part designated by letter (F,) and to Lucy Croghan, late Lucy Clark, one-sixth, being that part designated on said map by letter (D.)

The said ballot having been made at the time of executing this bond by me, at the request and in pursuance of most of the parties concerned. The expenses of said division is to be borne by the said parties interested, in proportion to their respective claim; and should it be discovered that, after settling several other smaller claims against said land, to the discharge of which about 4,000 acres are reserved, lying on the upper line of the upper survey, adjoining to and above a 12,000 a. tract, reserved to myself, lying above and adjoining to Hollingworth's upper tract, there should be a balance of said 4,000 acres, I do oblige myself, my heirs, &c., to convey such remainder to the heirs aforesaid, in the same proportion as in the part of the tract first herein mentioned in this obligation. The conveyance to be made by deed, with special warranty, and only to pass my title to the same.

Witness my hand and seal this 2d day of April, 1823.

WM. CLARK. [SEAL.]

Test:

W. H. BOOTH.

The ballot for the within mentioned tract, as lettered, was drawn by me, at the request and in the presence of Genl. Wm. Clark, as stated in the bond.

T. B. BULLITT.

April 2d, 1823.

MARCH 14th, 1824.

The above, this day copied by me from the original, which is, I believe, in the hand-writing of R. C. Anderson, jr.

J. W. D.

The deposition of Genl. Ro. Breckenridge, taken on the 16th June, 1824, at the court-house, in Louisville, to be used for deft., Wm. Clark, in the suit in chancery, in the Jefferson circuit court, wherein Jno. Thruston's ex'r is complainant, and s'd Clark, &c., are defts. The deponent being of lawful age, and first duly sworn, deposes and says: That he was the agent of Saml. Beall, dec'd, and for his representatives after his death, and had superintended the business of the estate generally, in Kent'y; that he recollects applying to Genl. William Clark for the payment of a sum of money on account of a demand which deponent had to collect for Beall's estate, against Genl. George R. Clark, which the said William paid in the year 1803, as deponent believes. Deponent says that the sum of money so paid, as he believes, was upwards of £250.

Quest. by Complt.

Why did you apply to Wm. Clark?

Ansr. Because I understood Genl. Geo. R.'s estate was very much embarrassed, and that Genl. Wm. Clark was attending to his business, and was paying some of his debts.

Quest. by same.

Do you know out of whose funds he paid said debts?

Ansr. I do not.

Quest. by same.

Was Wm. Clark bound as security, or otherwise, to pay the debt you had to collect for Beall above mentioned?

Ans. No; and further says not.

RO. BRECKENRIDGE.

The above is to have effect, as if sworn to.

GRAYSON,
For Complt.
DENNY & NICHOLAS,
For Deft.

STATE OF KENTUCKY.

I, Edmund P. Pope, clerk of the Jefferson circuit court, in the State of Kentucky, do certify that the foregoing one hundred and fifty-eight pages contain a true and complete transcript of the record and proceedings in the cause therein mentioned, as the same appears in my office.

Witness my hand this 10th day of August, 1836.

EDMD. P. POPE.

The following are the depositions taken and filed in this cause, to wit:

STATE OF KENTUCKY—*McCracken County, sct.*

In obedience to dedamus of the 7th circuit court of the United States for the district of Kentucky, we, Samuel Rice and John Henderson, two of the commissioners and acting justices of the peace in and for the said county of McCracken, on the 27 day of February, 1837, caused to come before us, at the house of John Hardin, in the county aforesaid, John Hardin, George Woolfolk, Benjamin R. Hardin, and Robert R. Hester, to testify in a certain matter of controversy now pending in said court, wherein William Clark is compl't, and Andrew Smith is def't; who, being of lawful age, and first duly sworn by us to answer interrogatories filed in said court by *by* the compl't, William Clark, official copies of which interrogatories are now before us and submitted to said witnesses.

Deposition of John Hardin.

The said J. Hardin, in answer to the said interrogatories, saith, that he has been acquainted with the mouth of the Tennessee ever since the year 1807, or 8, he having resided in the county, some 15 or 18 miles from the mouth, until 1818, where he moved and settled on the Tennessee, about two miles above the mouth, and has resided in the neighborhood ever since. He states, that in early times, at the point between the two rivers, was always called the mouth of the Tennesse; keel-boatmen ascending and descending the river Tennessee, always spoke of it as the mouth, and except in very low water, passed between the parcel of land between the rivers and the head of the island, whilst navig along the Ohio and Tennessee. Within the last 12 or 14 years, I have heard this point called the upper mouth, and the point at the lower end of the island called the lower mouth. The island is in the Ohio; and the distance from the head to the point of land between the two rivers, is about the same as from the island to the Kentucky shore. When the Tennessee is highest, it runs a large volume of water above the island; and when the Ohio has the ascendancy, its waters also mingle with the Tennessee above the head of the island: at a medium stage of water,

part of the waters of the Tennessee runs round the head of the island. The island, since I have known it, has extended in length down the river—islands usually form down stream. In the year 1819, or 20, I was with Green Clay, James Martin, Walter Loveless, and others, at the mouth of the Tennessee. Green Clay shewed us the beginning corner of George R. Clark's survey of 36,962 acres, patented the 15th Dec'r, 1795. It was a common corner, between May's & Clark. There was then standing, plainly marked, as corner trees, an ash and hackberry, two of the corner trees called for in Clark's patent. On these were ancient marks: the hackberry was chopped into, and by a comparison of the growth of the tree, reaching to the chop in the wood, the number of growths corresponded with the date of the survey. This corner stands on the bank of the river, rather below the point of land between the two rivers, and just above the head of the island, between what is now called the upper and lower mouth, but nearest the upper mouth. We then proceeded to the second corner, on the west bank of the creek, (now called Island creek,) which empties itself in the river opposite the said island, where we found standing two white oaks and two maples, four of the trees called for in the patent of Clark. Clay told me this was the corner of Clark. The said trees were plainly marked with ancient marks, as corner trees. We did not chop into these trees then; but the marks were of the character and appearance of those on the first corner. I traced from these trees ancient marked lines, corresponding with the corner of Clark's survey. I then left the corner, and followed May's survey. G. Clay told me he made Clark's survey, and described the situation of the ground before we got to the corner, which I found to be correct: the tops of both maples were dead. Since that time, I have seen these corners often. At the beginning corner, no one of the trees are standing; the ash's stem is standing. Green Clay told me, from this to the second corner was an open line. At the second corner, the two oaks are yet standing, but the maples are gone; there seems to be the appearance of sinks in the ground where they stood. I assisted in chopping out one of the marks on the white oak, a few days past, and find that the growth corresponded with the date of the survey. I have several times trained the line from this corner to the third corner. I found some very ancient marks, and very many which seems to have been made within the last 14 or 15 years. Where the third corner should be, I have not found the five black oaks, as called for in the survey, but the description of ground corresponds with the patent calls in every other particular; the line is something longer; there is a black oak growth; it is near the head of a hollow running a north direction, and near a high ridge. From this course, running the calls of the patent, (allowing for variation of needle,) you cross a branch of what was once called Four-mile-creek, (now *Buayo* creek,) a large pond, or lake, to a dead walnut on the bank of the Ohio, corresponding in appearance with the marks on the other corners. From my knowledge of the country, I have but little doubt, fifty years ago, except on river bottoms, and the bottoms of branches, it was almost

entirely destitute of timber. The black oak growth is a very fluctuating growth; it is easily killed by fire, and the woods being subject to annual burnings, great quantity is destroyed every year.

JOHN HARDIN.

Deposition of George Woolfolk.

Also, the deposition of George Woolfolk, who, for answer to said interrogatories, saith: He has been acquainted with the survey of 36,962 acres, west of Tennessee river, patented to George R. Clark 15th Dec'r, 1795; that in the spring of 1824, or 1825, he was at the beginning corner, with George Armstrong, James Martin, and others. He was shewn the corner by James Martin, as the corner shewn him as such by Green Clay, who made the survey. That corner is on the bank of the Ohio river, near which is now called the upper mouth of the Tennessee, rather below the point of land formed by the junction of the rivers Ohio and Tennessee, and above the head of the island in the Ohio, between what is now called the upper and lower mouth, but nearest the former; there was then standing an ash and hackberry, two of the trees called for in the patent, plainly marked as corner trees, the marks of very ancient character; the hackberry was then dead. There is now no appearance of those trees, except the stump of the ash. On the same day, the second corner was shown by Martin, as the corner shewn him by Green Clay; the corner stands on the west bank of the creek now called Island creek, that empties into the Ohio, opposite the mouth of the Tennessee. There was then, and is yet standing two white oaks, two of the trees named in the patent, marked as corner trees, with very ancient marks; and there seems the appearance where two or three trees have decayed, leaving sinks in the ground. One of the ancient chops or marks has lately been taken out of one of these oaks, and by a comparison of the growth from the chop, as found in the tree, it corresponds with the date of the survey; the chop is as distinct in the tree as if made but a 12-month; and fifty-three annalations distinctly and plainly to be seen, from the chop to the surface of the tree. From that corner, I have traced the line to the third corner; it passes through a barren country, and I have no doubt, at the date of the survey, was almost destitute of timber, except on the bottoms. I have seen some very ancient marks, stake for line marks, though few are distinct, and in appearance correspond with the marks on the corners described. At the third corner, the five marked black-oak saplins are not found, as called for in the patent; but the locality and appearance of the ground, in all other respects, corresponds with the description in the patent. It is in a black-oak growth of timber, near the head of a bottom running north course, and near a high ridge. This kind of timber is fluctuating, is easily killed with fire; and from the annual burnings of the woods, great quantities of this timber is annually destroyed by the fire. Running from this course to the river, you cross a branch of what was once called Four-mile-creek, (now Buyo creek,) a large pond, or lake, to

a walnut on the bank of the river; this walnut is one of the trees called for in the survey, and when first seen, in 1824, or 1825, plainly marked as a very ancient corner, and some of these marks are yet to be seen; it is now dead, and much seared with the fire and the axe; it is about three miles below old Fort Massac; the locality of the corner comports with the description given in the survey. The land in controversy has been in possession of compl't, and those whom he claims under, since the year 1819, and is in the limits of said patent of Clark.

G. WOOLFOLK.

Depo. of B. G. Hardin.

Also the deposition of Benjamin G. Hardin, who, in answer to the interrogatories presented, saith, that he has been at the second corner of said Clark's survey, on the banks of Island Creek. I saw two white oaks marked as corner trees, with very ancient marks; from that corner I carried the chain near to the third corner. I saw some old marks as line marks, corresponding *with* appearance of the marks on the white oaks, when we stopped for the third corner. I saw *no* old marked corner; it was in a black oak growth near the head of a hollow running north, and near a high ridge. We then run to the river to a black walnut, crossing a branch of Four-mile-creek, (now called *Bayo*,) and a lake or pond; the walnut is dead, and marked as a corner with very ancient marks; it is now much injured by fire and the axe. This corner is about three miles below old Fort Massac.

B. G. HARDIN.

Robt. R. Hester's Depo.

Also the deposition of Robert R. Hester, in answer the same interrogatories presented, saith, that he has been to the second corner of Clark's survey, standing on the west bank of Island Creek; saw two white oaks marked as corner trees; marks appear to be very ancient. From this corner I carried the chain near to the third corner, on the line; I saw old marks that appeared correspond to the marks at the corner. At the black oak corner I saw no old marks; the growth was black oak, near the head of a hollow that runs north, near a high ridge. We then run to the river to a black walnut, crossing a branch of Four-mile-creek, (now called *Bayon*,) and a lake or pond; the walnut is dead; has been injured by fire; is marked as a corner; marks appear ancient.

ROBERT R. HESTER.

STATE OF KENTUCKY, *McCracken County, sct:*

Justices' Certificate.

We, Samuel Rice and John L. Henderson, commissioners and

acting justices of the peace for said county, do certify that the depositions of John Hardin, George Woolfolk, Benjamin G. Hardin, and Robert R. Hester, which precedes this certificate, were, this 27th of February, 1837, at the house of John Hardin, in the county aforesaid, taken, sworn to, subscribed, and acknowledged, before us, for the purposes as set forth in the caption of said depositions.

Given under our hands, this 27th of February, 1837.

SAMUEL RICE, *J. P.*
JOHN L. HENDERSON, *J. P.*

John McIlyea's Depo'n.

The deposition of John McIlyea, taken at the house of George Woolfolk, in Paducah, Kentucky, on the 2d day of September, 1837. In obedience to a dedimus, which issued from the clerk's office of the 7th circuit court of the United States, in and for the Kentucky district, to be read as evidence in a suit in chancery, depending in said court, wherein William Clark is compl't, and Andrew Smith is def't. Said deponent being of lawful age, and first duly sworn, deposeth and saith, in answer to interrogatories filed in said cause, a copy of which *are* now submitted to his examination; as to the first question, he states that he has seen a tree, marked as an old corner tree, standing on the bank of the river, rather above the head of the island, at the mouth of the Tennessee river, and a short distance below the point of land formed by the junction of the Ohio and Tennessee rivers: this has been represented to him by Green Clay, John Hardin, George Lovelace, and others, as the beginning corner of George R. Clark's survey of 36,962 acres *survey;* a tree near it had the letters G. C. marked. I have lived within five miles of this point for the last 17 years, and for the last 16 years know that this place has been called, and considered, the beginning corner of Clark's survey, by persons generally, and as such is claimed by those holding under Clark's claim. I know that a line running from that point on the river, the course called for in the patent, to the second corner of the survey, on the bank of a creek, will include the sections and quarter sections as named in complt.'s bill, which I have examined, as well as the answer of the def't, and do state that the section 19, township 7, range 2, east, and sections 24, 25, and northeast and northwest quarters of section 13, township 7, range 1, east, stated in deft.'s answer, as not being within the boundaries of Clark's said patent of 36,962 acres, he knows to be within said boundary of said survey. He states that he has seen the back line of said survey, and the upper corner out from the river at the two white oaks; he has never seen the two lower corners; he has seen the line near the lower back corner. As to the 2d question he states, he has known the mouth of Tennessee river, and has resided within five miles of it for the last 18 years; that the point of land between the rivers Ohio and Tennessee has always, until a few years past, been known and called as the mouth of Tennessee; latterly it is called the upper mouth, and below, at the part of the island called

the lower mouth, the waters of the Tennessee river mingle with the Ohio. Above the head of the island, when I first knew it, even in low water, the channel for boating was between the part of the island and the rivers Ohio and Tennessee; and boats ascending the Ohio, and up the Tennessee, passed through that channel. As to the possession, he knows, that ever since the fall 1819, that compl't has been in possession of the said tract of land, by tenants residing thereon: and further saith not.

JOHN McILYEA.

STATE OF KENTUCKY—*McCrackan County, sct.*

The foregoing deposition of John McIlyea, was this day taken, sworn to, and subscribed before me, Joseph Daniel, justice of the peace, agreeable to the statement in the foregoing caption of said deposition.

Given under my hand, as a justice of the peace, in and for the county of McCracken aforesaid, this 2d Sept'r, 1837.

JOSEPH DANIEL, *J. P.*

John Hardin's Depo.

The deposition of John Hardin, Esq., taken at the law office of James B. Husband, in the town of Paducah, Kentucky, before me, John *John* B. Hicks one of the judges of the county court, of the county, in the Commonwealth of Kentucky, on the 21st day of October, in the year 1837, to be read as evidence, in a certain suit, depending in the 8th circuit court of the United States, in and for the Kentucky District, wherein William Clark is the compl't, and Andrew Smith is def't, in chancery, the said deponent being first carefully examined, and cautioned and sworn to tell the whole truth, doth depose and say, that he lives a greater distance from the town of Frankfort, Kent'y, than one hundred miles. Furthermore, he saith, that he is acquainted with the lines of a survey of land, in the name of George R. Clark, for 36,962, at the mouth of Tennessee river, and including the town of Paducah, that he knows nothing about the mouth of the Tennessee, in 1795, that his first knowledge of it was in 1807 or 1808; that in extreme low water, at his first acquaintance, the greater portion of the Tennessee river emptied into the Ohio river, below or at the foot of the Tennessee Island, but that he always, until within a few years last past, heard the Tennessee called, to be at the head of the Island, that from the foot of the Island to the point of land between and at the junction of the Ohio and Tennessee rivers, is about one and a half miles; that the Tennessee does not run into the Ohio at right angles; that the course of the Tennessee, at its junction, is angling and bearing down the Ohio, and if its course was continued, it would cross the Ohio opposite the lower part of the town of Paducah, below the foot of the Island, that Clark's reputed corner stands opposite the middle of the corner between the head of the Island and the point of land between the rivers, or nearly

so, and is about one mile, or upwards, on a direct line above the foot of the Island; that he is acquainted with the reputed line of Clark, from the said beginning corner out to the second corner on Island creek; that in 1818 or 1819, Green Clay shewed him the corner on the river, and told him it was the beginning corner of Clark and May's, and that the line from this corner to said second corner, was an open line between them, and had never been closed or run, and that they run a line of reference and found the second corner, but did not mark it, nor was the line marked at that date; the patent call of that line will not reach the second corner by about 236 poles; that at a high state of water there is a high portion of Ohio bottom, from the town of Paducah, down to Clark's lower corner of said survey, which overflows in high water; that from the town of Paducah, down to the average of the overflowing, is from a quarter to a half mile wide; that all the lines of said survey, except the river line, exceeds in length the patent calls; that he has more than once seen the space or channel between the head of the Tennessee Island and the point of land between the rivers, nearly dry, and further this deponent saith not.

JOHN HARDIN.

Moses Star's Depo'n.

Also the deposition of Moses Star, taken at the same time and place, and for the purpose in the caption mentioned, who being of lawful age, and first duly sworn to tell the whole truth, doth depose and say, that he lives a greater distance from the town of Frankfort, Kentucky, than one hundred miles. Furthermore, he saith that he is acquainted with said Clark's said survey of 36,962 acres from reputation, and that his father bought of said Clark; that said survey includes, as he is informed and believes, the town of Paducah; that in the summer of 1814, he first became acquainted with the mouth of the Tennessee river; that the island at the mouth of the Tennessee, has always, since his first recollection, been called the Tennessee Island; that the mouth of the Tennessee is at the foot of said island; that the main body of the Tennessee river unites with the body of the Ohio at the foot of the island; that the mouth of the Tennessee has always been reputed to be at the foot of the island until lately, until he has heard some individuals say otherwise; that he has known the waters of the Tennessee above the head of the island, to be so low that it was barely sufficient to float a light canoe, and even then the supply of water was from the Ohio, and not from the Tennessee; that in travelling down upon the lower side of the Tennessse, he would never reach the bank of the Ohio until he got down opposite the foot of the island, to the point upon the Tennessee river opposite, the channel at the head of the island is near two miles; that at all times, when the water of either river is high enough to make a current at all above the head of the island, that the current is across, and not down either river; that when the Tennessee and Ohio rivers first unite, that the general

course of the Tennessee is not at right angles to the Ohio, but angling down the Ohio, and further this deponent saith not.

MOSES STARR.

I, John B. Hicks, one of the justices of the peace for the Commonwealth of Kentucky, in and for the county of McCracken, duly commissioned, sworn, and acting as such, and by law, and by virtue of my said commission, one of the judges of the county court of said county, and acting as such, do certify that, at the request of the said defendant, I caused the above named John Hardin and Moses Star, deponents in the foregoing depositions, to come before me at the time and place in the caption stated, because the said witnesses reside a greater distance than 100 miles from Frankfort, Kentucky, the place of holding said court for the District of Kentucky, as they have stated; and I believe I did not cause any notice to be given to the adverse party of the time of taking these depositions, because the said adverse party does not, as I know or believe, reside within 100 miles of taking the same, nor has said party any agent or attorney known within said distance, that the said depositions were wholly reduced to writing by said witnesses, in my presence; and that they, then and there, in my presence, subscribed the same; that I am not counsel or attorney for either of the parties, or interested in the event of the cause. All of which is certified to said court as the cause wherefore these depositions are taken, and for the manner, is done this 21st day of October, 1837.

JNO. B. HICKS, *J. P. M. C.*

Dep'n of Charles Ferguson.

Also the deposition of Charles Ferguson, taken at the law office of James B. Husband, on Thursday, 26th October, 1837, in the town of Paducah, Kentucky, before me, John B. Hicks, one of the judges of the county court at McCracken county, in the Commonwealth of Kentucky, to be read as evidence in a certain suit depending in the 8th circuit court of the United States in and for the Kentucky district, wherein William Clark is the complt., and Andrew Smith is the defendant in chancery. The said deponent being first carefully examined, and cautioned, and sworn, then and there, to tell the whole truth, doth depose and say, that he lives a greater distance from the town of Frankfort, Kentucky, than 100 miles. He furthermore saith that he has been acquainted with the mouth of the Tennessee river about 18 years; that he always heard and understood from the people of the country, and from boatman, that the mouth of said Tennessee was, and is at the foot of the Tennessee island; that it is about one and a half miles from the foot to the head of said island; that the space or channel between the head of the island and the point of land between said rivers, is of late years deeper than it used to be, and that he has seen said space or channel perfectly dry some 16 years ago; that he never heard the head of the island called the mouth of the Tennessee until within the last 8 or 9 years; that ever

since he has known said river Tennessee, it has always emptied the greater portion of its waters at the foot of the island opposite where Paducah stands; and further this deponent saith not.

CHARLES FERGUSON.

I, John B. Hicks, one of the justices of the peace of the Commonwealth of Kentucky, in and for the county of McCracken, duly commissioned, sworn, and acting as such, and by law and by virtue of my said commission, one of the judges of the county court of said county, and acting as such, do certify that, at the request of the said defendant, I caused the above named Charles Ferguson, deponent in the foregoing deposition, to come before me, at the time and place in the caption stated, because the said witness resides a greater distance than 100 miles from Frankfort, Kentucky, as he has stated; and I believe I did not cause any notice to be given to the adverse party of the time of taking this deposition, because the said adverse party does not, as I know or believe, reside within 100 miles of the place of taking the same, nor has said party any agent or attorney known to me within said distance; that the said deposition was wholly reduced to writing by said witness in my presence, and that he then and there, in my presence, subscribed the same; that I am not counsel or attorney for either of the parties, nor interested in the event of the cause; all of which is certified to said court as the cause, wherefore this deposition was taken, and for the manner it is done.

JNO. B. HICKS, *J. P. M. C.*

October 26th, 1837.

F. A. Harrison's depo'n.

The deposition of F. A. Harrison, taken at the office of James B. Husband, in the town of Paducah, Kentucky, before me, John B. Hicks, one of the judges of the county court, of McCracken county, in the Commonwealth of Kentucky, on the 20th day of October, 1837, to be read as evidence, in a certain suit depending in the 8th circuit court of the United States, in and for the Kentucky District, wherein William Clark is compl't, and Andrew Smith is def't, in chancery, the said deponent being first carefully examined, and cautioned, and sworn to tell the whole truth, doth depose and say, that he lives a greater distance from the town of Frankfort than 100 miles. Furthermore, he saith, so much of the survey only as lies within the neighborhood of Paducah; I never saw the mouth of Ten. river until the year 1812; I was then told that the mouth of the Ten. river was above the head of the island now known as the Ten. Island; since 1827, I have seen said mouth entirely dry from the head of the island to the point of land jutting in between the two rivers; I would say that I was first on the bank of the Ohio at or near Paducah, opposite the foot of the island; it is about one and $\frac{3}{4}$ of a mile from the point of land between the two rivers to the foot of the island, and the Ohio and Tenn. rivers run nearly parallel with each other

for nearly one mile above the point, *only* being not more than 200 yards apart; the corner claimed by Clark is nearly opposite the point above the head of the Island and the west bank; I have examined the corner claimed as Clark's beginning; the west bank overflows from the town of Paducah to the mouth of the Ohio, varying from 100 yards to ¾ of a mile in width, in all there is perhaps 8 acres of overflowed land in the town of Paducah, including the late addition to said town, and further saith not.

F. A. HARRISON.

W. S. Gordon's Depo.

Also, the deposition of William S. Gordon, taken at the same time and place, and for the purpose in the caption mentioned, who being first carefully examined, and cautioned, and sworn to tell the whole truth, doth depose and say, that he lives a greater distance from the town of Frankfort than 100 miles. Furthermore, he saith, answer, I am acquainted with the claim of George Rogers Clark, including the town of Paducah, as the land and survey which he claims of 36,962 acres; that he does not know where the mouth of the Tennessee river was in 1775, but that in April, 1808, he first became acquainted with it; that when he first become acquainted with said mouth of the Tennessee river, the space or channel between the head of the Tennessee Island and the land or point between and at the junction of the rivers Tennessee and Ohio, was not then near as wide as it is now, and that said space is getting *is getting* wider every year, and that he does not think the channel in said space was as deep when he first knew it as it is now, and that said space at that time (1808) had every appearance of having been produced by the Ohio at no very distant date before that time, breaking into the channel of the Tennessee; that from the time he first knew any thing about of the Tennessee, that he, and all other boatmen with whom he was acquainted, called and estimated the mouth to be at the foot of the island; that he has frequently seen the channel or space between the head of said island and the point of land between or at the junction of said rivers, dry; that if he were travelling down the Tennessee river, on the west side, that he should not believe himself to have reached the bank of the Ohio until he should reach that point on the Ohio river opposite the lower end of the island, in the town of Paducah, which is about one mile and a half below the point on the Tennessee river, where Clarks claims his corner to be; that ever since he has known the Tennessee river, that the great body of its waters, in low water, have emptied themselves into the Ohio, at the foot of the island; that he has seen and examined Clark's beginning corner on the Tennesse, and that from the size of two of the trees marked, that he would say they were not in existence 53 years back; that drowned land on the Ohio river is that which overflows in freshets, and that the drowned lands below the mouth of the Tennessee commence near or at its mouth, and widen out so as to make an average width of three quarters of a mile all the way down to Clark's

lower corner of said survey, on the Ohio river, a distance of twelve miles; that from the mouth of the Tennessee up, there is no drowned land, until you get at the corner of Clark, which is on the bank of the Tennessee, and not of the Ohio, and further this deponent saith not.

WM. S. GORDON.

I, John B. Hicks, one of the justices of the peace, of the Commonwealth of Kentucky, in and for the county of McCracken, duly commissioned, sworn and acting as such, and by law, and by virtue of my said commission, one of the judges of the county court of said county, and acting as such, do certify, that at the request of the said def't, I caused the above named Francis A. Harrison, and William S. Gordon, deponents in the foregoing depositions, to come before me at the time and place in the caption stated, because the said witnesses reside a greater distance than 100 miles from Frankfort, Kentucky, the place of holding said circuit court, for the District of Kentucky, as they stated, and I believe, I did not cause any notice to be given to the adverse party, of the time of taking these depoitions, because the said adverse party does not, as I know or believe, reside within 100 miles of the place of taking the same, nor has said party any agent or attorney, known to me, within said distance; that the said depositions were wholly reduced to writing, by said witnesses, in my presence, and that they then and there, in my presence, subscribed the same; that I am not counsel or attorney for either of the parties, or interested in the event of the cause; all of which is certified to said court, as the cause wherefore these depositions are taken and for the manner it is done, this 20th day of October, 1837.

JNO. B. HICKS, *J. P. M. C.*

STATE OF KENTUCKY, *McCracken County, sct.*

In obedience to a dedimus of the 7th circuit court of the United States for the Kentucky district, I, John McIlyea, one of the commissioners, and one of the acting justices of the peace in and for the county aforesaid, on the 4th day of March, 1837, caused to come before me, at the house of George Woolfolk, at Paducah, Joseph Daniel, Robert Fletcher, and Thomas S. Terrill, to testify in a certain matter of controversy now pending in said court, wherein William Clark is complainant, and Andrew Smith, is defendant, who being of lawful age, first duly sworn by us to answer interrogatories filed in said court by the complainant, Clark, official copies of which are before us, and submitted to the witnesses respectively.

Joseph Daniel, in answer to said interrogatories saith, he knows nothing of the boundary of Clark's patent; as early as the year 1810, he resided at Smithland, about 12 miles above the mouth of Tennessee, at that time it was called 12 miles to the mouth of Tennessee, which is at the point of land at the junction of the two rivers, and just above the head of the island in the Ohio, at the mouth of the Tennessee, and know that boatmen then called this mouth of the

Tennessee, and as such was called by the citizens in Smithland of of late years. I have heard that called the upper mouth, and at the lower point of the island, the lower mouth. I have known this point well ever since 1810, when the Tennessee is highest, it throws a large volume of water above the head of the head of the island, and when the Ohio has the ascendency it pass a large quantity of its waters above the head of the island into the Tennessee; but when the rivers of equal height, the Tennessee waters run around the head of the island, from the head of the island to the point of land between the two rivers, and from the island to the Kentucky shore is about the same distance; in very low water there is about as much of the Tennessee waters passes above the island as passes between the island and Kentucky shore; this island, since I first knew it, has extended down the river, and is extending and increasing downwards every year, since 1822. I know that the complainant has had tenants on the land in dispute.

JOSEPH DANIEL.

Deposition of Robert Fletcher.

Also the deposition of Robert Fletcher, who, in answer to the said interrogatories saith, I have lived in the county of McCracken, and on the tract of land patented to G. R. Clark, containing 36,962 acres, ever since the year 1825, and some short time after, I settled in the county, James Martin, Esq., who was the tenant of Clark, informed me how I could find the beginning corner of the survey; some time in the fall of the same year, I made search and found the ash corner standing at the mouth of the Tennessee river, and just below the point formed below the junction of the two rivers, Ohio and Tennessee, and marked as a corner as described by said Martin, the marks were very ancient. I have since that time traced the lines to some extent, not all round, and found in the creek bottoms and timbered places, old marks, corresponding with those of the corner I searched for, the upper back corner in the summer of 1836, and found two white oak trees standing on the bank of a creek, that empties into the Ohio opposite the island, plainly marked as corner trees. I chopped out of one of them a block, and from the growths of timber since the chop was made *to* shows an age of fifty-three years, (to the year 1837, the above beginning corner has been generally known as Clark's corner ever since I have in the county. I have been acquainted with the mouth of the Tennessee river ever since the year 1825, and at that time, the descending and ascending boats passed through the upper mouth of the Tennessee at that time, the main channel being above the island; since that time the channel has changed to the lower mouth of the river; such changes are very common by a change of said bars, the channel is necessarily changed to some extent, the island spoken of stands in the Ohio river, and opposite of the mouth of the Tennessee river, which forms the upper and lower mouths of the river; the two opening are nearly of the same width; the island has been yearly forming lower down the river since my first acquaintance with it. I

know that Clark has been in the possession of the above mentioned tract of land ever since 1825, until this day by his tenant.

Deposition of Thomas Terrill.

Also the deposition of Thomas Terrill, who, in reply to said interrogatories saith, that he knows nothing of his own knowledge of the possession of said tract of land. He states, that he has been shown the beginning corner of George R. Clark's survey of 36,962 acres, by John Harden and George Woolfolk, it stands on the bank of the Ohio river, at the mouth of the Tennessee, just below the point of land formed by the junction of the two rivers, Ohio and Tennessee. I saw an ash stem shown as the stem of one of the corner trees; I have been at the second corner on the bank of Island creek and two white oaks; these oaks are marked as corner trees with very ancient marks. I chopped into one of the trees, and found by counting the growths of the tree, they correspond with the date of the survey. The chop is distinct and plainly discerned. From the corner I have assisted in running the line to the third corner; the distance of the line is greater than called for in the patent; the five black oak saplins as called for in the patent, is not to be found; that the location and description of country corresponds with the description in the patent; there is a black oak grove, it is near the head of a hollow running north, and near a high ridge, from the point to run with the calls of the patent; allowing for variation of needle, you cross a branch of what is called Four-mile-creek, (because it empties into the river about four miles below old fort Massac,) also a large pond or lake, to a dead black walnut; this line I have also traced; the walnut is marked as an ancient corner, and stands on the bank of the Ohio, about three miles below the old fort Massac; I found on the back line some ancient line trees, and some on the line running to the river at the black walnut; from my knowledge of the country, I think it quite certain, that this country was at the date of this survey nearly clear of timber, except on the river and creek bottoms, the black oak growth is very subject to destruction by fire, and great quantity is every year destroyed by fire.

THO. S. TERRILL.

STATE OF KENTUCKY—*McCracken County, Sct.*

I, John McIlyea, acting justice of the peace, in and for the county aforesaid, do certify that the foregoing deposition of Joseph Daniel, Rob't Fletcher, and Thos. S. Terrille, was this 4th day of March, 1837, at the house of George Woolfolk, at Paducah taken, sworn to, subscribed and acknowledged before me, for the purposes in the caption mentioned. Given under my hand, as justice of the peace, for the county aforesaid.

JOHN McILYEA, *J. P.*

4th MARCH, 1837.

Depo'n of F. A. Harrison.

The deposition of Francis A. Harrison, taken before Joseph Daniel, one of the justices of the county court of McCracken, in the Commonwealth of Kentucky, on the 28th day of April, 1837, at the courthouse, in the town of Paducah, in the county aforesaid, to be read as evidence in a certain suit, depending in the district court of the United States, for the Kentucky district, holden in Frankfort, wherein William Clark is the compl't, and Andrew Smith defendant; the said depnt. being first carefully examined and cautioned, and sworn to tell the whole truth, doth depose and say, that he lives a greater distance from Frankfort than 100 miles. Farthermore, he saith that he cannot say of his own knowledge, when the survey of Gen'l George Rogers Clark, of 36,962 acres was made, and that he know nothing about the boundaries or corners of said survey, at the date when they were made, nor within twenty-five years afterwards; that in 1827, he saw on an ash tree, on the south side G. C., and on the west side, G. R. C., within about two feet, or two and a half above the surface of the earth; on the said tree was the figures of 178; something, whether a 2 or an 0, I cannot say; this tree stood on the bank of Tennessee, opposite the upper mouth, and that the marks on the tree had every appearance of age, and were marked as corners, and other trees as pointers. This has been shown to me as Clark's corner, and was then said to be his beginning corner, that on examining the extreme southwest corner of said survey, and by cutting out a chip, and counting the growths of the tree, it was found to be fifty-four years from the time when said tree was first chopped; that the said tree is a white oak, about two feet and one half in diameter, and that the counting of said growths is the only means by which he knows the date when said tree was first chopped as a corner; that said tree and a gum standing by it, bore ancient marks, but whether they were first marked as a corner or not, he cannot say that said trees, and another white oak, marked as a corner stand, on the bank of Island Creek, that he does not speak of said gum tree as a corner, but that it stands about twenty steps from the corner, and that he knows nothing about the lines; never having traced them one hundred yards; that it is between one mile and a half, and two miles from the west bank of the Ohio, up the Tennessee river, to the said corner, shewn to be Clark's beginning corner; that he had no knowledge of that being Clark's corner, until 1827; that in travelling down the Tennessee, and on arriving at Clark's corner, he would still call it the bank of the Tennessee river, and that the Island at Paducah, is below said corner; that the Island at the mouth of the Tennessee, is in the Tennessee river, if it be the highest tide; or that if the tide of the Ohio is the greatest, it is in the Ohio, and that said Island is not only now, but always has been called by the people of the country, by the name of the Tennessee Island, and that no part of it is above high water mark, and that the space between the upper end of the Island, and the main land on the Livingston county shore is washing wider and deeper every year, and that he has never known said space to be entirely dry, except in the year 1829, and that

in ordinary low water, the Tennessee runs round above the point of the main Island; that in going to the Island from the west bank of the Tennessee, you cross the waters of both the Ohio and Tennessee; that he does not know that the Tennessee river ever run on the opposite side of the Island from Paducah, and that Paducah is at the lower mouth of the Tennessee river, and that in low water the Tennessee empties more water into the Ohio, at the lower than at the upper mouth; and further, this deponent saith not.

F. A. HARRISON.

Moses Star's Dep.

Also the deposition of Moses Star, taken at the same time and place, and for the purpose afs'd. The deponent being of lawful age, and first duly sworn, deposeth, and saith, that he lives a greater distance than 100 mlles from the town of Frankfort. Furthermore, he saith, that he knows nothing of the boundary or corners of said Clark's survey, of his own knowledge; that he has been acquainted with the mouth of the Tennessee ever since 1811, and that the island at the mouth is, when the Tennessee is high, in the Tennessee, and when the Ohio is high, it is in the Ohio; because the Ohio will then run round it, and that it has always been called the Tennessee Island; does not know whether or not, the land on said Island is above high water mark, and that the space between the head of the Island, and the main shore on the Livingston county shore, was deeper and wider in 1834, than when I first come to this country; that he has never seen said space entirely dry; that the bigger part of the Tennessee runs on the west side of the Island, and that in going to the Ialand from the west side, he always called it himself, crossing the Tennessee, and that he has always heard it called so; and that Paducah is at, or a little below the mouth of the Tennessee, and that the main body of the waters, of both the Ohio and Tennessee rivers meet below the Island, both in high and low water, and that Paducah is below the point of the Island, and that said rivers have always been reputed by the people of the country to unite below said Island, and that there is no creek running into the Tennessee now, nor never has been since I knew said Tennessee, at the foot of said Island, and that now there is a creek emptying into the Tennessee, near midway the Island, called Island Creek, which runs back into the country ten or fifteen miles; and further, this deponent saith not.

MOSES STARR.

Deposition of Charles Furguson.

Also the deposition of Charles Ferguson, taken at the same time and place, and for the purpose in the notice mentioned, who being of lawful age, and first duly sworn, deposeth and saith, that he lives a greater distance than 100 miles from said town of Frankfort. Furthermore he saith, that he knows nothing about the lines and corners of Clark's Treasury warrant claim, covering the town of Paducah,

and said contain 36,962 acres; that he came to the country in the year 1818, and has lived here ever since; that the Island at the mouth of the Tennessee lies between the two rivers, and that the same has been always called the Tennessee Island; that high water has covered all the Island, but not often, and that the channel or space above the Island is washed out, and is deeper than when he first moved to the country, and that said space, in a low time of water, is nearly dry, or was when he first knew it, but not so now, and that the Tennessee river runs on the west side of the Island, except a small stream of water which runs round upon the east side, and that in going to the Island from the west side, he would cross the main body of the Tennessee river, and that he cannot say whether or not the Tennessee ever run on the east side of the Island; and that Paducah has always had the mouth of the Tennessee river; and that the main body of both the Tennessee and Ohio rivers meet below the Island, and that Paducah opposite the lower end of the Island, and further this deponent saith not.

his
CHARLES ⋊ FERGUSON.
mark.

KENTUCKY—*McCrackan County, sct.*

I, Joseph Daniel, one of the justices of the peace, of the Commonwealth of Kentucky, in and for the county of McCracken, duly commissioned, sworn and acting as such, and by law, and by virtue of my said commission, one of the judges of the county court of said county, and acting as such, do certify, that at the request of the said Andrew Smith, I caused the above named Francis A. Harrison, Mosses Star, and Charles Ferguson, deponents in the foregoing depositions, to come before me at the time and place, in the caption stated, because the said witnesses reside a greater distance than 100 miles from Frankfort, the place of holding the said court of the United States, as is stated; and that a notification of the time and place of the taking of said depositions, was given to George Woolfolk, the agent and attorney in fact, of the said William Clark, and to put interrogatories; a copy of which notification, with the service thereof by an authorized and legal officer, is herennto attached; that the said witnesses w*as* by me carefully examined, cautioned and sworn, then and there, to testify the whole truth; that the said depositions were wholly reduced to writing in my presence, and that the said deponents, then and there, in my presence, described the same; that I am not counsel or attorney for either of the parties, or interested in the event of the cause; all which is certified to said court, as the cause wherefore these depositions are taken, and for the manner it is done.

JOSEPH DANIEL, *J. P. M. C.*